his torch caught the grain on fire—and he died as a result of flame inhalation while attempting to extinguish the fire.

Jim was a Christian gentleman and a talented man who served in the House in the 90th Congress and subsequently was appointed Administrator of the Farmers Home Administration. He served his district, State, and Nation faithfully and well and his family can reflect with pride on his fine record of public service.

I want to take this means of extending to his wife, Mary Belle, and the children this expression of my deepest and most heartfelt sympathy. My wife Ann joins me in an expression of these sentiments.

SENATE—*Wednesday, June 27, 1973*

(Legislative day of Monday, June 25, 1973)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

O God, our Father, help us to live through this day as befits those who now begin the day with Thee. Bless us and make us a blessing to this Nation and the world. Help us to think aright, to speak aright, and to come to right conclusions. Help us to listen with respect and discrimination. Preserve us alike from too hasty speech and from cowardly silence. Amid tedious and vexatious hours, keep us serene and strong, firm and faithful. When we go to rest, grant us the peace of those who have cast their burdens upon Thee, and know that their times are in Thy hand.

In the name of the Lord of all life, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, June 26, 1973, be approved.

The 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 today.

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Georgia (Mr. NUNN) is now recognized for not to exceed 15 minutes.

(The remarks Senator NUNN made at this point on the introduction of S. 2081, to amend the Social Security Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER FOR RECOGNITION OF SENATOR TOWER VACATED

The PRESIDENT pro tempore. Under the previous order, the Senator from Texas (Mr. TOWER) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. TOWER at this time be vacated.

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

Mr. ROBERT C. BYRD. I yield such time from my order as the distinguished majority leader may wish.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 230, 232, 235, 237, and 238.

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

MINT BUILDINGS

The bill (S. 1901) to amend the act of August 20, 1963, as amended, relating to the construction of mint buildings, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act of August 20, 1963, as amended (31 U.S.C. 294), is further amended to read as follows:

"SEC. 4. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for each fiscal year which begins after June 30, 1963, and ends before July 1, 1983, such sums as may be necessary to carry out this Act, except that the aggregate of sums appropriated under this section shall not exceed $95,000,000. Sums appropriated to the Department of the Treasury for the purposes of this Act may be available for transfer to the Administrator of General Services to remain available until expended."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (S. Rept. No. 93-243), explaining the purposes of the measure.

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

HISTORY OF LEGISLATION

S. 1901 is a committee bill which was introduced on May 30, 1973. Hearings were held on June 6, 1973, by the Subcommittee on Minting and Coinage. The subcommittee met in open markup session on June 13, 1973. On June 20, 1973, the Committee on Banking, Housing and Urban Affairs met in open executive session and ordered S. 1901 to be reported favorably to the Senate without objection.

GENERAL STATEMENT

This bill would authorize an increase of $50 million in the amount of money that can be appropriated to the Department of the Treasury for the construction of mint facilities. The present authorization of $45 million is insufficient to meet the needs of the Bureau of the Mint. This would increase the total authorization for the construction of mint facilities to $95 million.

This increase is needed for the construction of a new mint in Denver, Colo. These new facilities are vitally needed by the mint to keep pace with the rapidly increasing need for coins in our economy.

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.

INTERNATIONAL VOYAGE LOAD LINE ACT OF 1973

The bill (S. 1352) to require load lines on U.S. vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Voyage Load Line Act of 1973".

SEC. 2. The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as "Secretary") shall enforce the provisions of this Act and prescribe regulations to carry out its provisions. With the consent of the Secretary of the Treasury, the Secretary may utilize officers of the Bureau of Customs to enforce this Act and the regulations established hereunder.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "new ship" means a vessel the keel of which is laid (or which is at a similar stage of construction) on or after July 21, 1968; and

(2) "existing ship" means a vessel which is not a "new ship".

APPLICABILITY

SEC. 4. (a) This Act applies to vessels which—

(1) arrive at any port or place within the jurisdiction of the United States from foreign ports;

(2) make voyages between foreign ports (except foreign vessels engaged in such voyages); or

(3) depart from any port or place within the jurisdiction of the United States for a foreign port.

(b) This Act does not apply to—

(1) ships of war;

(2) pleasure craft not used in trade or commerce;

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(3) fishing vessels;
(4) existing ships of less than one hundred and fifty gross tons;
(5) new ships of less than seventy-nine feet in length;
(6) vessels which navigate exclusively on the Great Lakes; or
(7) vessels operating on sheltered waters between ports of the United States and neighboring countries as provided in any treaty of the United States.

(c) A vessel which voluntarily obtains loadlines shall be treated as a vessel subject to the Act until its loadline certificate is surrendered and its loadline marks removed.

(d) This Act does not abrogate any provisions of treaties or conventions in effect, which are not in conflict with the International Convention on Loadlines, 1966, and to which the United States has acceded.

DETERMINATION OF LOADLINES; ISSUANCE OF CERTIFICATE; PROHIBITION

SEC. 5. (a) The Secretary shall prescribe loadlines, the marking thereof, and associated condition surveys for vessels subject to this Act to indicate the minimum freeboard to which each may be safely loaded, giving due consideration to, and making differentials for the service, type, and character of each vessel, and in conformance with applicable international treaties or conventions to which the United States has acceded.

(b) Loadlines shall be permanently and conspicuously marked and maintained in the manner prescribed by the Secretary. Upon completion of survey requirements and a finding that the loadline is positioned and marked in the manner prescribed, the Secretary shall issue a loadline certificate, to the master or owner of the vessel, which shall be carried on board the vessel.

(c) A loadline shall not be established or marked which, in the judgment of the Secretary, authorizes less than the minimum safe freeboard. At the request of the owner a loadline may be established or marked to indicate a greater freeboard than that which the Secretary determines is the minimum safe freeboard; any such loadline shall be the prescribed loadline for purposes of section 9.

APPOINTMENT OF SURVEYORS; REVOCATION

SEC. 6. (a) The Secretary shall appoint the American Bureau of Shipping, or such other United States nonprofit corporations or associations for the survey or registry of shipping which he approves, to determine that a vessel's condition is satisfactory and whether its loadline is positioned and marked in the manner prescribed by the Secretary and thereupon to issue a loadline certificate.

(b) The Secretary may appoint for the purpose of this section:
(1) any officer of the United States, or
(2) at the request of a shipowner, any other corporation or association for the survey or registry of shipping which he approves.

(c) The Secretary may revoke an appointment under this section at any time.

EXEMPTIONS

SEC. 7. When a vessel subject to this Act is shown to be entitled to an exemption from the provisions of this Act by an international agreement to which the United States has acceded, a certificate of exemption shall be issued to the vessel, and carried in lieu of the certificate required by section 5 of this Act.

RECOGNITION; NONAPPLICABILITY

SEC. 8. (a) When it is found that the law and regulations in force in a foreign country relating to loadlines are equally effective as this Act and the regulations hereunder, or when a foreign country has acceded to an international loadline agreement to which the United States has acceded, the markings and certificate thereof of a vessel of the country shall be accepted as complying with the provisions of this Act and regulations hereunder. The control of such vessels shall be as provided in the applicable international agreement.

(b) Subsection (a) does not apply to vessels of foreign nations which do not similarly recognize the loadlines prescribed under this Act.

LOADING RESTRICTIONS; RECORDATION

SEC. 9. (a) No vessel subject to this Act may be so loaded as to submerge the prescribed loadline, or to submerge the point where an appropriate loadline under the Act and the prescribed regulations should be marked.

(b) The master of a vessel subject to this Act shall, after loading but before departing for a voyage by sea from any port or place in which this Act applies, record in the official logbook or other permanent record of the vessel a statement of the relative position of the prescribed loadline mark applicable at the time in question with respect to the water surface, and of the actual draft of the vessel, forward and aft, at the time, as nearly as they may be ascertained.

DETENTION OF VESSELS

SEC. 10. (a) When the Secretary has reason to believe that a vessel is about to leave a port in the United States or its possessions in violation of this Act or the regulation hereunder, the Secretary may, upon notifying the master or officer in charge of the vessel, order the vessel detained.

(b) Clearance required by section 4197 of the Revised Statutes, as amended (46 U.S.C. 91), shall be refused or withdrawn from any vessel so detained until correction of deficiencies.

(c) The master or officer in charge of a vessel may petition the Secretary, in a manner prescribed by regulation, to review the detention order.

(d) Upon receipt of a petition, the Secretary may withdraw the detention order, modify it, or require independent surveys as may be necessary to determine the extent of deficiencies. Upon completion of his review including results of any required independent surveys he shall affirm, set aside or modify the detention order.

(e) The owner of a vessel is liable for any costs incident to a petition for review and any independent surveys if the vessel is found to be in violation of this Act or the regulations hereunder.

PENALTIES FOR VIOLATIONS

SEC. 11. (a) Except as otherwise provided in this section, the owner and the master of a vessel found in violation of this Act or the regulations thereunder, are each liable to a civil penalty of not more than $1,000 for each day the vessel is in violation.

(b) Each person, if the owner, manager, agent, or master of a vessel who knowingly allows, causes, attempts to cause, or fails to take reasonable care to prevent the violation of subsection 9(a) of this Act or the regulations thereunder, is liable to a civil penalty of not more than $1,000 plus an additional amount of not more than $500 per inch of unlawful submergence.

(c) For any violation of subsection (b) of section 9 of this Act or the regulations thereunder, the master of the vessel is liable to a civil penalty of not more than $500.

(d) Any person who knowingly causes or permits the departure of a vessel from any port or place within the jurisdiction of the United States or its possessions in violation of a detention order pursuant to section 10 of this Act, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(e) Any person who causes or allows the concealment, removal, alteration, defacement, or obliteration of any mark placed on a vessel pursuant to section 5 of this Act and the regulations thereunder, except in the event of a lawful change or to escape enemy capture in time of war, shall be fined not more than $2,000 or imprisoned not more than two years or both.

(f) For any penalty under this section the vessel is also liable.

(g) The Secretary may assess and collect any civil penalty incurred under this Act and, in his discretion, remit, mitigate, or compromise any penalty prior to referral to the Attorney General.

SEC. 12. Act, March 2, 1929 (C. 508, 45 Stat. 1493); Act, May 26, 1939 (C. 151, 53 Stat. 783); and section 1 of Act, August 31, 1962 (Public Law 87-620, 76 Stat. 415), are hereby repealed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-245), explaining the purposes of the measure.

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

PURPOSE OF THE LEGISLATION

The purpose of S. 1352 is to implement the provisions of the International Convention on Load Lines, 1966, to which the United States is a party and which came into force on July 21, 1968.

BACKGROUND

Pursuant to the requirements of the so-called "Load Line Statute" certain new vessels must be measured and marked for purposes of compliance with the statute, and this compliance is policed by the U.S. Coast Guard. The origin of this statutory requirement dates back to the 19th century. The natural interest of ship owners at that time was to maximize revenue, leading them frequently to load vessels to a point beyond safety. As a result, the greater weight of the vessel's load the lower she would ride in the water, making her more vulnerable to heavy seas with the consequence that many seamen lost their lives. This led to the description of the "coffin" ship by a writer on insurance. It prompted a crusade in England against the practice by Samuel Plimsoll, M.P., whose activities secured legislation in 1876 which required that ships be marked on their sides showing the limits of safety for different seas and seasons. This mark now is commonly referred to as the "Plimsoll Line" or "Load Line." Other nations followed England in this requirement; since 1929 the United States has made the placing of and compliance with such load line marks mandatory. In 1931 the United States acceded to the International Load Line Convention of 1930, establishing worldwide standards in this matter. This Convention subsequently was amended in 1966. (See for further background, e.g., Robinson, Gustavus H. *Handbook of Admiralty Law in the United States*, at page 570 et seq.; and Gilmore, Grant and Black, Jr., Charles L. *The Law of Admiralty* at page 779.)

The International Convention on Load Lines, 1966, was signed on April 5, 1966, at London, by the representatives of the United States government. On October 13, 1966, the United States Senate gave its advice and consent to ratification of the Convention. (See Executive Report No. 9 of Oct. 12, 1966, to accompany Executive S of the 89th Congress, 2d session). By the terms of Article 28, paragraph 1, the Convention came into force on July 21, 1968. Sixty-four other countries have either ratified or acceded to the Convention.

The 1966 Load Line Convention establishes

new uniform rules with respect to the limits to which ships on international voyages may be loaded, having regard to the need for safeguarding life and property at sea. Its intent is to bring international load line regulation into accord with modern developments and techniques in ship construction. Since 1930 when the previous Load Line Convention was signed, there have been significant changes and improvements in ship design and a general increase in the size of ships. In many cases deeper loading of ships can now be safely permitted. Annexes, forming an integral part of the Convention, embody regulations for determining load lines indicating the depth to which vessels may be loaded according to the geographical zone and the season of the year in which they operate. Certificates are prescribed for issuance to ships surveyed and marked in accordance with the Convention, or validly exempted.

EXPLANATION OF THE LEGISLATION

The bill would repeal the Foreign Load Lines Act, 1929, as amended (46 U.S.C. 85a-85g) and would substitute the proposed International Voyage Load Line Act of 1973, which is necessary to implement the changes required by the 1966 Convention and its annexes.

Authority to enforce the provisions of the bill and to prescribe regulations is granted to the Secretary of the Department in which the Coast Guard is operating. Provision is made for the determination of the position and manner of marking of load lines by the American Bureau of Shipping or other United States nonprofit organizations and for the recognition of load line certificates issued by other nations which extend reciprocity to United States load line certificates.

The bill makes it unlawful for a vessel to be so loaded as to submerge the prescribed load line or the point where an appropriate load line should be marked. It permits the detention of a vessel about to depart in an overloaded condition. The master of a vessel subject to the bill is required to record the ship's draft and position of the load line mark prior to the departure of a vessel from any port or place to which the legislation would apply.

Civil penalties are provided for violation of the bill or any regulation issued thereunder. The bill would make it a crime to knowingly permit a vessel to depart from any port in violation of a detention order and to cause or allow the alteration of prescribed load line marks.

The major substantive change to existing law is the minimum parameter for new vessels on which load lines would be required. Present law applies to vessels of 150 gross tons or more. The 1966 Convention requires load lines on new ships of a minimum length of 79 feet. The bill provides the authority to reach those vessels.

Application of the bill is limited to ships on international voyages. The legislation specfies those vessels which are exempted. Other definitions and terminology generally reflect that used in the 1966 Convention. Civil penalties and fines are substantially the same as present law.

The imprisonment penalties in the present law are increased from maximum periods of three months and one year to maximum periods of one year and two years. The increases bring the maximum sentences into a more appropriate relationship with the fines which may be imposed.

COST

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Committee estimates that there would be no additional cost incurred by this Act.

The Committee is not aware of any estimates of cost made by any Federal agency which are different from those made by the Committee.

CONCLUSION

The Committee ordered the legislation favorably reported without objection. Its enactment will provide the Department in which the Coast Guard is operating with the necessary authority to fully implement the International Convention on Load Lines, 1966, to which the United States has acceded and which has been in force since July 21, 1968.

PURCHASE OF U.S. OBLIGATIONS BY FEDERAL RESERVE BANKS

The Senate proceeded to consider the bill (S. 1410) to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 1 year the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury, which had been reported from the Committee on Banking, Housing and Urban Affairs with amendments in line 5, after "July 1,", strike out "1975" and insert "1974"; and, in line 7, after "June 30,", strike out "1975" and insert "1974"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(b) of the Federal Reserve Act, as amended (12 U.S.C. 355), is amended by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1974" and by striking out "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

The amendments were 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 section 14(b) of the Federal Reserve Act, as amended, to extend for 1 year the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-248), explaining the purposes of the measure.

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

PURPOSE OF THE LEGISLATION

The bill would extend for a 1-year period, from June 30, 1973, to June 30, 1974, the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury.

The present authority for Federal Reserve banks to make direct purchase of U.S. obligations was enacted in World War II and has been extended temporarily from time to time since enactment. The last extension was authorized in 1971 when the authority was extended to June 30, 1973.

There follows a letter from the Secretary of the Treasury requesting and justifying this authority be continued.

NEED FOR TREASURY TAX AND LOAN ACCOUNT REFORM

Mr. McINTYRE subsequently said: Mr. President, as chairman of the Financial Institutions Subcommittee, I would like to bring to the attention of my colleagues some of the implications of S. 1410 which was passed today by the Senate.

This bill, as amended, will extend the existing authority allowing the Federal Reserve banks to purchase (via 14(b) of the Federal Reserve Act; 12 U.S.C. 355) up to $5 billion in U.S. obligations directly from the Department of the Treasury for 1 additional year.

The Department of the Treasury uses this authority to minimize the impact of very short-term Treasury financing needs on financial markets and also to achieve better management of the Treasury's cash position.

On March 22 of this year, Acting Secretary of the Treasury, Mr. William E. Simon, requested a 2-year extension of this authority. This, however, the Senate Banking and Housing Committee refused to do.

While Congress has extended the Federal Reserve's 14(b) authority from time to time since World War II, we have not fully looked at the consequences of our actions. While the Treasury claims that it needs increased sources of funds via provision 14(b), this same department permits Federal tax money to languish in commercial banks across this country on an interest free basis in the form of demand deposits. These deposits are more commonly called Treasury Tax and Loan Accounts (31 U.S.C. 771; 26 U.S.C. 6302(c); 12 U.S.C. 90 and 265).

Mr. President, these are made up of moneys actually owed to the Government which are held by commercial banks until the Treasury calls in the funds to pay outstanding debts. The accounts include, but are not limited to:

First. Payments for U.S. savings bonds and U.S. savings notes issued by commercial banks.

Second. Payments for U.S. savings bonds and U.S. savings notes which are applied for through commercial banks on behalf of their customers, but which may be issued only by Federal Reserve banks and the Treasurer of the United States.

Third. Payments made by or through commercial banks for allotments on subscriptions for other obligations of the United States issued under the authority of the Second Liberty Bond Act, as amended, when this method of payment is permitted under the terms of offering circulars.

Fourth. Payments of such internal revenue taxes as the Secretary of the Treasury may from time to time authorize to be paid through Treasury Tax and Loan Accounts. (Code of Federal Regulations, title 31, section 203.)

Since these funds are held in noninterest-bearing accounts, they net no revenue for the Federal Government. Yet commercial banks are permitted to invest such funds for profits. The net effect is that the banking industry—if it invests wisely—is being subsidized by the Federal Government. In fact, a recent study, requested of the General Accounting Office—GAO—found that the banks estimated potential income from tax and loan accounts to be $262 million which,

after deducting handling costs of $25 million, netted the industry roughly $237 million profit for a 1-year period ending March 31, 1973.

What is even more astounding is the concentration of tax and loan accounts. In 1972, a House Banking Committee study found that less than 8 percent or 102 of the 13,700 commercial banks in this country held over 48 percent of all such funds. At the time the study took place, the outstanding tax and loan accounts amounted to $5.7 billion.

This incredible concentration of public money in private financial institutions continues despite the Treasury's statutory authority to redistribute the moneys on an "equitable" basis. (12 U.S.C. 90.)

Furthermore, this concentration of monetary power continues and during the first quarter of 1973 the average monthly outstanding tax and loan accounts stood at a phenomenal $7.4 billion of interest-free deposits.

The Senate Banking, Housing and Urban Affairs Committee, the House Banking and Currency Committee, and GAO have considered on a number of occasions the question of whether these tax and loan accounts could not either be operated in a more efficient manner or whether some or all of the funds should not be deposited in interest-bearing accounts.

It should further be noted that the GAO specifically has been calling for reform in this area for about 20 years now with little effect. They have reported to Congress in numerous studies their belief that, at the very minimum, interest rates should be imposed on the excess profits realized from tax and loan accounts for a bank's free use of Federal funds.

Others, including the Department of the Treasury, have suggested that we maintain the status quo. It has also been proposed that tax and loan accounts be reduced by increasing the draw of the Federal Reserve on the Treasury.

In any event, it is clear that this matter is complicated and deserves full and complete airing of the issues at hearings.

It should be noted, though, that there is previous precedent for at least charging interest rates on tax and loan accounts. In 1917 Congress passed the Liberty Loan Act which established War Loan Accounts which were the precursors to today's tax and loan accounts. Congress further required that banks pay a 2-percent interest rate on these accounts and this was done without disruption of the economy and with an increase in net Government revenues. While it is true much has changed since then, we have much to learn from history.

As a result of all these findings, I brought this matter up with Mr. James E. Smith, then Deputy Under Secretary of the Department of the Treasury, in my Subcommittee on Financial Institutions during hearings I held in March. At that time, Mr. Smith indicated that there was nothing inherently wrong with the present structure of tax and loan accounts. Yet the facts remain the same.

A certain few commercial banks are receiving a disproportionate amount of Federal funds and not one of them is paying interest on their use of these Federal moneys. As I have said before, I find the present situation both inequitable and indefensible. My position is the same as before. I believe we must hold hearings on the matter to get a better grip on the issue and to propose legislation if it is needed.

Mr. President, I request unanimous consent at this point that a page of the May 1973, Treasury Bulletin and a letter I recently received from Mr. E. H. Morse, Jr., Assistant Comptroller General, be printed in the RECORD.

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

TREASURY BULLETIN, MAY 1973

TABLE TUS-2.—ANALYSIS OF CHANGES IN TAX AND LOAN ACCOUNT BALANCES

[In millions of dollars]

Fiscal year or month	Credits: Proceeds from sales of securities [1] — Savings bonds and savings notes [2]	Retirement plan and tax and loss bonds [3]	Tax anticipation securities	Other	Credits: Taxes — Withheld, excise, and corporation [4]	Income (by special arrangement) [5]	Total credits	Withdrawals	Balance: End of period	During period: High	Low	Average
1964	2,760	2	----------	2,014	43,580	9,921	58,277	59,421	9,180	10,257	1,577	4,747
1965	2,635	1	2,340	----------	42,475	12,598	60,050	58,540	10,689	10,872	1,844	5,431
1966	2,704	1	7,368	1,627	48,478	14,522	74,699	75,338	10,050	11,274	447	4,324
1967	2,783	----------	7,643	1,173	70,524	9,257	91,382	97,160	4,272	9,979	710	3,775
1968	2,673	5	9,538	9,576	90,791	----------	112,583	112,741	4,113	8,004	1,029	4,191
1969	2,599	4	10,408	5,417	123,906	----------	142,333	141,921	4,525	9,720	709	4,329
1970	2,573	5	13,043	3,640	132,460	----------	151,721	149,317	6,929	7,990	894	4,022
1971	2,844	5	6,954	12,421	131,421	----------	153,346	152,900	7,372	8,532	846	5,146
1972	3,309	5	6,443	9,369	145,797	----------	164,920	164,645	7,634	10,251	1,737	5,648
1972:												
April	315	1	----------	1,722	14,002	----------	16,038	12,704	9,724	9,724	3,617	5,851
May	309	----------	----------	1,740	12,475	----------	14,526	16,825	7,420	10,251	7,420	9,169
June	235	----------	----------	----------	17,160	----------	17,395	17,184	7,634	7,638	2,271	4,908
July	264	----------	----------	----------	11,476	----------	11,740	12,831	6,547	7,273	3,214	5,653
August	254	----------	----------	----------	12,044	----------	12,298	15,817	3,025	5,945	2,337	3,794
September	224	1	----------	----------	15,512	----------	15,737	10,659	8,105	8,133	800	3,834
October	250	----------	----------	1,988	11,003	----------	13,251	15,297	6,051	7,969	2,995	5,315
November	236	----------	1,972	2,106	11,445	----------	15,759	15,020	6,786	6,786	2,763	4,691
December	236	----------	2,441	2,047	15,709	----------	20,433	18,315	8,907	8,907	1,468	5,213
1973:												
January	343	----------	----------	[6] 17	12,703	----------	13,063	13,654	8,317	8,760	3,190	6,190
February	320	----------	----------	----------	13,153	----------	13,473	12,386	9,401	10,854	5,373	7,768
March	283	4	----------	----------	17,417	----------	17,704	17,361	9,744	10,254	5,768	8,241
April	292	2	----------	----------	16,969	----------	17,263	17,328	9,683	9,683	1,876	5,921

[1] Special depositaries are permitted to make payment in the form of a deposit credit for the purchase price of U.S. Government securities purchased by them for their own account, or for the account of their customers who enter subscriptions through them, when this method of payment is permitted under the terms of the circulars inviting subscriptions to the issues.

[2] United States savings notes first offered for sale as of May 1, 1967 and were discontinued after June 30, 1970.

[3] Retirement plan bonds first offered for sale as of Jan. 1, 1963; tax and loss bonds first issued in March 1968.

[4] Taxes eligible for credit consist of those deposited by taxpayers in the depositary banks, as follows: Withheld income taxes beginning March 1948; taxes on employers and employees under the Federal Insurance Contributions Act beginning January 1950, and under the Railroad Retirement Tax Act beginning July 1951; a number of excise taxes beginning July 1953; estimated corporation income taxes beginning April 1967; all corporation income taxes due on or after Mar. 15, 1968, and FUTA taxes beginning April 1970.

[5] Under a special procedure begun in March 1951, authorization was gi ven during certain periods for income tax payments, or a portion of them made by checks of $10,000 or more drawn on a special depositary bank, to be credited to the tax and loan account in that bank. This procedure was discontinued in April 1967.

[6] Represents a corrected classification of a December 1972 transaction. Less than $500,000.

Source: Office of Fiscal Assistant Secretary; figures are on basis of telegraphic reports.

JUNE 26, 1973.

HON. THOMAS J. MCINTYRE,
U.S. Senate.

DEAR SENATOR MCINTYRE: On June 25, 1973, your office requested information on (1) the interest which would have been due the Government for the year ended March 31, 1973, if banks had been required to pay the Treasury Department interest on demand deposits of Government funds in tax and loan accounts in commercial banks computed at the Federal funds rate, and (2) the estimated banks' costs of performing services directly related to tax and loan accounts.

For the 12-month period ending March 31, 1973, we estimate that the interest which would have been due the Government on all tax and loan balances was about $262 million, determined as follows:

1. We started with the average monthly balances in all tax and loan accounts for the

12-month period. These balances ranged from about $3.8 billion to about $9.2 billion and averaged about $5.9 billion.

2. From these monthly balances, we deducted an estimated amount representing the reserves which banks are required to maintain against these balances. The computation of the required bank reserves attributable to tax and loan balances was based on a statement by a representative of the Federal Reserve System who said that the reserve requirements for demand deposits averaged about 16 percent prior to November 1972 and about 15 percent thereafter.

3. We then multiplied the remaining balances by the average monthly Federal funds interest rates. The Federal funds interest rate, which ranged from 4.17 percent to 7.09 percent during the 12-month period ended March 31, 1973, is the rate which banks charge for funds loaned to other banks.

Current cost data is not available showing the banks' costs of performing services directly related to tax and loan accounts. On April 5, 1973, the Treasury Department sent questionnaires to 600 banks asking the banks to report data on costs incurred in providing services for the Government. However, the results of these questionnaires are not yet available. The latest available estimated cost data is contained in a Treasury Department study entitled "Report on Treasury Tax and Loan Accounts and Related Matters" dated December 21, 1964. The data in this cost study is based on information for calendar year 1963 submitted by selected banks in response to a Treasury Department questionnaire.

The Treasury Department's 1964 cost study showed that the annual costs incurred by banks was about $116 million for all services performed for the Government such as cashing Government checks, handling tax and loan accounts, issuing and redeeming savings bonds, and handling food stamps issued by the Department of Agriculture. The study showed that the annual costs to all banks of performing services directly related to tax and loan accounts were as follows:

Handling tax and loan deposit forms	$4,025,658
Servicing tax and loan accounts	2,620,259
Total cost-handling tax and loan accounts	6,645,944

Assuming that these were valid cost estimates, we estimated that current bank costs for handling tax and loan accounts would be approximately $25 million annually for all banks. Our calculations were based on the results of the Treasury Department's 1964 cost study adjusted to give consideration to (1) the increase in the volume of tax and loan deposit transactions from about 11.8 million in fiscal year 1963 to about 32.4 million in fiscal year 1972, and (2) the increase in the consumer price index from 91.7 in 1963 to 125.3 in 1972.

We must emphasize that these cost estimates are rough approximations at best. Our calculations are based on the assumption that the data in the Treasury Department's 1964 cost study is valid and that cost increases in subsequent years are in direct relationship to the increased volume of tax and loan deposits and increases in the consumer price index. There are other factors such as changes in the banks' productivity which would affect banks' cost of handling tax and loan accounts and it is not possible for us to determine the effects of all such factors on banks' costs of handling tax and loan accounts. Therefore, our computations should not be considered as representing banks' current costs of handling tax and loan accounts with any degree of certainty.

Because of the reporting time constraints we did not obtain the comments of the Treasury Department on the matters discussed in this letter.

We do not plan to distribute this letter further unless you agree or publicly announce its contents.

Sincerely yours,

E. H. MORSE, Jr.,
Assistant Comptroller General of the United States.

AUGUST F. WALZ

The Senate proceeded to consider the bill (S. 1615) for the relief of August F. Walz, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, on such terms that it deems just, the United States Postal Service is authorized to compromise, release, or discharge in whole or in part the liability of August F. Walz, postmaster, United States Post Office, Wilmington, Delaware, of the sum of $28,978.62 representing the amount of a revenue deficiency charged to his postal account as postmaster. Such deficiency resulting from unpaid postage on second-class transient mailings of the "Wilmington Suburban News" and the financial inability of the owner of such newspaper, and after his death, his estate, to pay any part of such amount.

The amendment was agreed to.

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

CONSTITUTIONAL RIGHTS OF INDIANS

The bill (S. 969) relating to the constitutional rights of Indians was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 701 of title VII of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes", approved April 11, 1968, is amended to read as follows:

"(c) There is authorized to be appropriated for carrying out the provisions of this title such sum as may be necessary.".

PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Richard Fay of Senator NELSON'S staff be allowed to remain on the floor during the Senate debate and votes on H.R. 8410, the public debt limit bill.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, on the time of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

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

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). 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 nominations under New Reports.

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

The PRESIDING OFFICER. The first nomination will be stated.

FEDERAL BUREAU OF INVESTIGATION

The second assistant legislative clerk read the nomination of Clarence M. Kelley, of Missouri, to be Director of the Federal Bureau of Investigation.

The PRESIDING OFFICER. Under the order the distinguished Senator from Mississippi (Mr. EASTLAND) is in control of 15 minutes of the time and the distinguished Senator from Nebraska (Mr. HRUSKA) is in control of the remaining 15 minutes of the time.

Who yields time?

Mr. EASTLAND. Mr. President, I yield myself just a minute or two.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. EASTLAND. Mr. President, the Committee on the Judiciary held extensive hearings on this nomination and found nothing wrong and everything good about the nominee. He is an outstanding police chief. He is honest, and everyone agrees. He is competent. He leaves the most progressive police force in the United States. I think he should be approved. By the way, the vote in the Committee on the Judiciary was unanimously in favor of confirmation.

Mr. HRUSKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HRUSKA. Mr. President, it is with great pleasure that I take this opportunity to voice my support for Clarence M. Kelley to be the Director of the Federal Bureau of Investigation.

Mr. Kelley received the unanimous approval of the Committee on the Judiciary after 3 days of intensive hearings. During those hearings he displayed an admirable forthrightness and candor, as well as a great knowledge of law and its enforcement. He indicated a deep awareness of the various sensitivities of law enforcement, including the necessity of achieving a fair balance between the rights of citizens and the demands of effective police work. He also expressed a willingness to work closely on FBI matters with an appropriate committee of the Senate.

Most recently, when questions were posed to members of the Senate as to what factors should ideally be present in an individual under consideration for the directorship of the FBI, the response often was that the individual should first, have a solid knowledge of the FBI and its procedures, second, that he have broad and seasoned experience in police work, third, that he not be active in

partisan political activities, and finally, that he not have had any association with Watergate or related matters.

Mr. Kelley fulfills all these requirements to an extraordinary degree.

Mr. Kelley, a lawyer and a member of the Missouri bar, has devoted a lifetime to law enforcement. He served with distinction in the Federal Bureau of Investigation for 21 years, retiring after having attained the position of special agent in charge at Memphis, Tenn. By virtue of this 21 years service he has gained wide experience in the different operating levels of the Bureau.

In 1961, Mr. Kelley retired from the FBI to accept the challenge of reforming the scandal-ridden Kansas City, Mo., police department. As chief of police, he quickly revitalized that troubled department and restored its public confidence. His leadership qualities resulted in the dramatic upsurge in morale and efficiency of his subordinates. His administrative talents were demonstrated by his introduction of modern means of organization and new techniques to the police force so that today it is known as one of the finest in the Nation. By his performance, he has gained the respect of his men and the support of the overwhelming portion of the citizens of Kansas City.

These qualities, I believe, will serve him well as Director of the FBI.

In his 11-year tenure as police chief, Mr. Kelley served under three presidents of the local board of police commissioners and three Governors of the State of Missouri, two Democrats and a Republican. Last year, he was chosen by both the Democratic and Republican Parties to oversee security control at their national conventions in Miami, Fla. There has been no evidence to indicate that Mr. Kelley has been an active participant in policies nor even a suggestion as to his party affiliation. I feel it hardly necessary to add that as chief of police in Kansas City, Mr. Kelley has not been involved in any of the investigations of the Watergate matter.

Mr. Kelley will bring to the FBI moral integrity, independence, and a far-reaching experience in law enforcement at both the local and national levels. That organization urgently requires a permanent leader of this quality. I, therefore, urge my colleagues to speedily confirm this man as the Director of the Federal Bureau of Investigation.

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

Mr. HRUSKA. I yield.

Mr. MANSFIELD. Mr. President, I wish to go on record as being in favor of this appointment. I think Mr. Kelley has all the attributes needed for a job which, in effect, really has been vacant for more than a year. There have been stopgap Directors of the Federal Bureau of Investigation. The present occupant, Mr. Ruckelshaus, a man of great integrity and great understanding, left a most important position as Director of the EPA at the request of the President to take on his present position, but he did so with the stipulation that he would hold it only for a couple of months at the most. He has performed exceedingly well and I think the time really is long past due when this position should be filled. I can think of no better nominee than Mr. Kelley to take over the permanent directorship of this most important and most needed organization.

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

Mr. HRUSKA. I yield to the Senator from New York.

Mr. JAVITS. I thank my colleague for yielding.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I first would like to associate myself with the statement made by the majority leader respecting Mr. Ruckelshaus, whom I know very well. At a time when public service seems to involve risks to one's character and future, of an unparalleled nature, it is splendid that a relatively young man should undertake so readily so sensitive a position in our Government as he did at the request of the President in respect to the Federal Bureau of Investigation.

I second the appraisal of my colleagues respecting Mr. Kelley, the new nominee, and I support him.

I think two things have been gained. I say that in the presence of both the chairman and the ranking minority member of the Committee on the Judiciary. One, the FBI has been opened up to the public view for the law enforcement agency which it is, and this is all to the good. For too long this seemed to the people to be some closed corporation over, above, or beside the Government of the United States. Certainly, we have seen the end of that. Whatever may have been its virtues, in the end did not turn out to be virtues. Second, and very important, my colleagues on the Committee on the Judiciary have approved a professional in terms of law enforcement and security of the United States. Again, I think that is a beneficent change in terms of the public feeling a sense, not only of confidence, which I feel they have had, but also that the Federal Bureau of Investigation is theirs, to serve them like any other agency of Government. So I think the net result has been a good one, and I join my colleagues in approval of the nomination.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I wish to join with my distinguished chairman (Mr. EASTLAND), the ranking members of the committee (Mr. HRUSKA), the distinguished Senator from New York (Mr. JAVITS), and the very distinguished majority leader (Mr. MANSFIELD) in expressing support for the nomination of Mr. Clarence Kelley as Director of the Federal Bureau of Investigation.

Mr. Kelley has had 21 years experience with the FBI. He served, incidentally, at the beginning of that FBI career in Huntington, W. Va. He also served 12 years as the chief law enforcement officer for Kansas City, Mo. He is a lawyer, and in his appearance before the Committee on the Judiciary he answered all questions forthrightly, and with apparent honesty, sincerity, and candor. Of course, there were a good many questions which he could not answer about the Bureau because he had not been working with the FBI for well over a decade.

I believe he will act quickly to restore "sagging morale" of the Federal Bureau of Investgiation. It could be expected that morale would have suffered under the very traumatic occurrences affecting the Bureau in recent months.

Mr. Kelley's background does not indicate a politically oriented proclivity on his part. There is no connection with the Watergate affair, which had such a serious impact on another nominee for the same position some time ago.

I trust that the Senate will confirm his nomination quickly.

Mr. President, the committee, in reporting this nomination, took the position that the confirmation of Mr. Kelley at this time would not preclude in any way the passing of legislation, subsequent to his confirmation, to establish a definite tenure of office for the Director.

In my discussions with members of the Judiciary Committee on yesterday, it appeared to me that there was a consensus in support of a 10-year term, with the possibility of reappointment and reconfirmation for a second 10-year term. It is my intention to introduce a bill either today or tomorrow to implement that purpose.

I earlier introduced a bill which would provide for a 7-year term, but, as I have said, in my talks with other members of the Judiciary Committee at various meetings yesterday, they seemed to support the idea of a 10-year term, with the possibility of confirmation for one additional 10-year term.

Mr. EASTLAND. Mr. President, what the Senator has said is absolutely correct. The committee is going to hold hearings of a day or two. Of course, the committee will work its will. Mr. Kelley favors 10 years. I think the majority of the committee also does.

Mr. ROBERT C. BYRD. I thank the distinguished Senator very much.

Mr. MANSFIELD. Mr. President, will the distinguished chairman of the committee yield?

Mr. EASTLAND. I yield.

Mr. MANSFIELD. First, may I say that I hope it will be possible to have a rollcall vote on this nomination, because I think it is most important to have one. Let me say also that there have appeared in the press from time to time reports to the effect that when an FBI agent is sent to Butte, Mont., he is being sent to Siberia. I want to nail that canard publicly. I want it to appear in the record and I want Mr. Kelley to know—and I am sure he does—that Butte, Mont. is one of the most important and one of the most scenic posts in the United States. It is the headquarters for the States of Montana and Idaho. There are something on the order of 30 or 35 FBI agents located in Butte. They have access to fine hunting, fine fishing, marvelous scenery, and I just want the record to show that,

far from being a Siberia, Butte, Mont. is not only one of the more desirable posts in the Federal Bureau of Investigation, but, in reality, one of the most sought after. I simply wish to make the record clear and put to rest notions to the contrary about Butte.

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

Mr. MANSFIELD. I yield.

Mr. HRUSKA. Would the majority leader include in the fine attributes of Butte, Mont., also that some of the finest people in the world are there?

Mr. MANSFIELD. Without question. Butte is not the most beautiful city in the world; it is one of the most picturesque. But as far as the people of Butte and the Butte area and Montana are concerned, they just cannot be beat.

Mr. EAGLETON. Mr. President, the reputation of the Federal Bureau of Investigation has suffered in recent months. In order to restore that reputation, the FBI needs a Director of unquestioned integrity, strength of character and law enforcement experience. Such a man is Clarence M. Kelley, and I urge that the Senate speedily confirm his nomination.

I have known C. M. Kelley since he was named chief of police of Kansas City in 1961, when I was attorney general of Missouri. I am acquainted with his record as chief, and I am also acquainted with his record of 21 years of service with the FBI prior to his Kansas City appointment. The entire record is superb.

I will not go through it all here. But I do want to point out that in 1961 Chief Kelley took over a factionalized police department which had been tinged by scandal and built it into an excellent force known for its innovative approach to law enforcement.

Among his accomplishments in Kansas City have been the formation of a metro squad, which handles major cases in a multi-county area in two States; the introduction of operation barrier, a system of roadblocks throughout the city to catch fleeing suspects; the establishment of a computer operation which has been described as the best in the country; introduction of a round-the-clock helicopter patrol program, and an expanded community relations program.

The Senate Judiciary Committee, under the distinguished leadership of Senator EASTLAND, has extensively explored Chief Kelley's past record and his current beliefs. The committee reported out his nomination unanimously. I urge the Senate to confirm him.

Mr. COOK. Mr. President, I would like very much to associate myself with the remarks of the Senator from Missouri. Being a member of the Judiciary Committee and having attended many of the hearings, I find that Chief Kelley was very candid in his remarks and had a very deep insight into both the Federal Bureau and police operations and the functioning at the local level.

Obviously the record shows that he was with the Federal Bureau of Investigation for 20 years. Really, his life has been devoted to this work.

I commend the Senator from Missouri for his remarks in regard to Mr. Kelley and would hope that the Senate would act speedily so that the Federal Bureau of Investigation may have a permanent Director and we can look forward to a degree of stability within the Department.

I might also add that I hope the Senate will seriously consider the proposal that the distinguished Senator from West Virginia will very shortly propose, a bill that would establish two 10-year terms for the Director of the Federal Bureau. I might say that in the course of the interrogation of Mr. Kelley, he indicated that he was very much amicable to this. He thought it was a good basis upon which we could adopt a term office.

I would hope that during the course of this debate on Chief Kelley, we will not lose sight of the fact that it is the desire of, I would assume, a majority of the members of the Committee on the Judiciary—and this is merely an assumption on my part—that the Senate move speedily toward the passage of a bill that would establish a 10-year term for the Director of the Bureau, and that he be subject to reappointment for not more than one additional 10-year term.

Mr. EAGLETON. I thank the distinguished Senator from Kentucky for the sentiments he has expressed. I share his sentiments not only as to the preeminent qualifications of Chief Kelley, but also as to the legislative proposals of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. THURMOND. Mr. President, I rise in support of the nomination of Clarence M. Kelley as Director of the Federal Bureau of Investigation.

Personal character and integrity, professional experience in law enforcement, leadership capacity and the ability to establish and maintain high standards of efficiency, discipline, and morale—these are the qualities necessary to the Director of the Federal Bureau of Investigation. Chief Clarence M. Kelley exemplifies such qualities.

He served in the Federal Bureau of Investigation for 21 years rising to the rank of Special Agent-in-Charge before resigning to become chief of police of Kansas City.

He was faced with problems of low morale and charges of corruption in the police department, but in his 12 years of service in Kansas City, through force of will and his fine personal example, he turned it into an outstanding example for other departments across the United States. Not only did he restore discipline and morale, he went further to make his police department one of the most forward looking and innovative in this Nation.

He has won national recognition for his distinguished leadership, outstanding professional and administrative abilities, and creative use of new equipment, technology and methods, while maintaining his well-merited reputation as a hard-working, forceful, and fair law officer.

He has always placed professionalism above any political considerations and has been recommended and endorsed by members of both political parties and many bipartisan groups. The Northwest Missouri Law Enforcement Assistance Council, for example, said in their recommendation of Chief Kelley:

> We do not know his equal in Law enforcement expertise. We feel that he would be the single most qualified individual that you could select to direct the FBI.

Mr. President, on August 17, 1970, I was honored to address the 71st National Convention of the Veterans of Foreign Wars, one of the finest veterans and patriotic organizations in the United States.

After I had spoken that night, when awards were presented, I had the pleasure of meeting Chief Kelley, who was presented on that occasion with the VFW J. Edgar Hoover Gold Medal Award.

After meeting Chief Kelley and getting to know him at that time, I am confident that he thoroughly deserved the award, and that he also deserves the many accolades that have been made about him since he has been appointed as Director of the FBI. It is my conviction that he will make an excellent Director of the Federal Bureau of Investigation.

I am confident that Clarence M. Kelley will be a truly outstanding Director of the Federal Bureau of Investigation, and I urge my colleagues to confirm his nomination promptly.

Mr. DOLE. Mr. President, the Senate today considers a nomination which—except for a seat on the Supreme Court—is perhaps the most important single position in the Nation's criminal law enforcement system. Therefore, it is important and necessary that we give full and concentrated attention to the business before us, for our part in the confirmation procedure places a full message of responsibility on us.

Over the past several decades the Federal Bureau of Investigation has grown from a small, struggling unit in the Federal bureaucracy into the most respected, efficient and effective force against crime in America and one of the most highly regarded in the world. Because of this growth and increase in stature, the directorship of the FBI has come to be a position of great power and high prestige. Thus, any individual who fills this post must meet the highest standards of personal character and professional competence, but he must also demonstrate an extra dimension of integrity and the promise of being able to grow into and with this job.

It is the Senate's solemn responsibility to assure itself—to the maximum possible extent—that any nominee for the directorship of the FBI meets these high qualifications. This process takes place in two forums, First, in the Committee on the Judiciary, and, second, in the full Senate. Each step in this process is important, and requires that each Senator devote his best efforts to assuring himself of a nominee's qualifications before casting his vote.

The nomination of Clarence M. Kelley has now reached the final stage in the confirmation process, and his name comes

to the Senate with the unanimous endorsement of the Judiciary Committee.

I have previously announced my support for Mr. Kelley's nomination, and the action of the Judiciary Committee is further evidence to me of the outstanding qualifications he possesses.

Coming from Kansas and having been a frequent visitor to Kansas City, Mo., I feel particularly well-acquainted with Chief Kelley's accomplishments while with the Kansas City, Mo., police force. He worked very closely with Kansas authorities in establishing a broad approach to law enforcement across State and county lines. And he built a spotless reputation for the integrity of himself and the professionalism of the men and women under his command.

I do not wish to make a lengthy statement at this time, for Chief Kelley's reputation and the promise he gives of providing progressive and strong leadership for the FBI is the best testimony on his behalf. I would only say that I believe the President has made an exceptionally good choice, and I believe Chief Kelley merits the Senate's confidence and a favorable vote on his nomination.

Mr. TUNNEY. Mr. President, Mr. Clarence Kelley has my vote for confirmation as Director of the Federal Bureau of Investigation.

The FBI is one of several major government agencies twisted and compromised by the administration in the Watergate scandal.

I am very hopeful Mr. Kelley will restore integrity and independence to the FBI and will rescue morale of agents from present despair.

Mr. Kelley, answering questions I and other members on the Senate Judiciary Committee put to him, made clear he will not let the FBI become a partisan arm of any political party or special interest.

Mr. Kelley made clear that he will not campaign for candidates.

He made clear he will not turn over sensitive FBI files to political henchmen.

He made clear he will study and implement safeguards to prevent leaks and to purge unverified rumors from the computerized data on millions of Americans.

He also agreed to submit to thorough congressional oversight on all aspects of FBI activity.

Mr. Kelley, after 21 years with the FBI and then 12 as chief of police in Kansas City, has won a justifiable reputation for integrity and leadership in law enforcement.

The FBI is the world's foremost investigative agency, and Mr. Kelley will assure that it remains just that.

Mr. MATHIAS. Mr. President, today, for the first time in its history, the Senate will pass upon the nomination of a Director of the Federal Bureau of Investigation. The Congress has become increasingly aware of the necessity for it to thoroughly fulfill its constitutional role. This awareness and the importance which the Federal Bureau of Investigation has in our Nation makes this an occasion worthy of note.

Mr. Kelley comes to the Bureau at a difficult time. The FBI has been without a permanent Director since the death of J. Edgar Hoover, the head of the Bureau almost since its inception. The FBI now lacks direction. It is apparently rent with dissension and its high reputation of professionalism is somewhat tarnished. The Bureau cannot help but suffer from current charges concerning involvement of its personnel in the Watergate episode. Regrettably, the mere appointment and confirmation of Chief Kelley will not itself change this. Continued examination of the FBI's political involvement in this and past election campaigns appears likely. All of this makes it imperative that Chief Kelley move quickly to reestablish the objectivity and professionalism of the FBI.

Chief Kelley's record would indicate that he merits confirmation. His experience in law enforcement, much of it in the FBI, reenforces the hoped-for professional approach of the Bureau.

We can learn from history as we are obliged to look to the future. It is no criticism of Chief Kelley nor of the Bureau to say that this is the time for the Congress to address itself seriously to the problem of establishing a statutory base for the FBI. I note that Senator ROBERT C. BYRD has introduced legislation on this subject, S. 1500. I am pleased that he has done so and that he has announced that he is not wedded to any particular provisions of that bill but that he views it as a means by which the Senate can explore the issues that such a statute raises. I believe that such a debate is necessary and that legislation is in the public interest and in the interest of the Bureau.

I believe that such legislation should attempt to address itself to the difficult problems of accountability and independence of the agency. Such legislation should deal with the jurisdiction the agency will have, the types of activities it can undertake, and limitations on that activity. Legislation is needed to focus on the proper function of information within the FBI and law enforcement system. Legislation is needed to settle questions of the proper role of national security considerations as they affect the FBI and other Federal agencies.

Today, as we confirm Chief Kelley, I am mindful that this is a hopeful first step toward total review of the agency.

Mr. President, I ask unanimous consent to have printed in the RECORD the written questions I submitted to Mr. Kelley and his written answers.

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

QUESTIONS BY SENATOR MATHIAS IN WRITING TO CLARENCE M. KELLEY

(1) I have always had a high regard for the F.B.I. and for your predecessors as Director or Acting Director of this agency. I think all Americans are aware of the tremendous contribution to our nation that the F.B.I. and its personnel have made. I hope that you, if you become Director, will communicate my feelings of esteem, which I believe are shared by this entire Committee, to the members of the F.B.I.

I have been concerned for some time that we in the Congress may be expecting the F.B.I. to do too much. Particularly, I have been concerned that we may be asking it to do our job, or the President's job, or the court's job, in too many cases. The operation of the NCIC system, about which I will ask questions later, may be an example of the failure of Congress to establish clear guidelines.

For reasons similar to this, I believe it may be imperative for the good of the country and of individual citizens for the Congress, and particularly this Committee, to buckle down to the difficult but important task of defining by statute the purposes, role, powers, responsibilities, authority, permissible activities, accountability, and independence of the F.B.I. I think we need to make clear to whom the Director should report under certain circumstances. I think we should make clear the Bureau's relationship to the political process. I think we need to make clear what the F.B.I. is not supposed to do—as well as what it is supposed to do—so that you can concentrate your full energies and resources to the tasks which are properly before you.

I wonder if you would agree with me on these points, and I would appreciate your expanding on your own thoughts in this area.

In particular, do you believe it would be proper and useful for the Congress to provide a full, carefully sculpted, statutory basis for the F.B.I. and its Director? If so would you be prepared to cooperate in the drafting of such a statute? Could you give to this Committee a draft of what you believe such a statute should contain in the next month?

(2) If faced with a situation where you could not make your views known directly to the President, or if faced with a situation where you were in major disagreement with a policy under which you were expected to operate, would you resign?

(3) Attached is a copy of an article which appeared in the May, 1973 Journal of the American Bar Association which is submitted for the record, to be printed at the conclusion of these questions. The article cites one alleged misuse of crime statistics by the F.B.I. Please comment on the article, and the allegations contained therein. Would you agree that the reliability of crime statistics is vitally important if such statistics are to be a viable tool for measuring Progress in the fight against crime? What steps has the agency taken and do you plan to take to insure the greatest possible degree of accuracy in F.B.I. statistics? What steps have been or will be taken to obtain accurate data from F.B.I. sources the F.B.I. uses to obtain such statistics?

(4) Please elaborate on the meaning of the phrase "in contemplation of prosecution" which you used during your testimony in discussing the permissible purpose of domestic intelligence gathering operations. Is this the equivalent of a probable cause standard or is it something short of that?

(5) During his confirmation hearings, now Attorney General Richardson made reference to two views expressed by J. Edgar Hoover about the operations of the F.B.I.

That there is a need to maintain a separation between intelligence gathering and evaluation of that intelligence

That there is a need for limitation of F.B.I. authority to specific crimes in order that the agency not become a national police force.

Do you agree? What are the implications of these views for the operations of the agency? For legislation governing the operations of the F.B.I. which Congress may adapt?

(6) Would you oppose wire-tapping a news reporter to discover his sources of news? What if the Attorney General or the Presi-

dent requested you to tap a newsman to discover his sources? Would you refuse? What are the standards you would apply in reaching a decision? The laws governing this process?

(7) Do you believe that law enforcement officers should have access to bank records of citizens? Under what circumstances and for what purposes? Should they be required to obtain a warrant first?

II

I am impressed that in your experience with the Kansas City Police Department, you have dealt extensively with the NCIC and related systems.

I gather that you have found these systems generally useful, but I would assume that you have thoughts on how they might be made more useful as tools for attaining the goals with which we all agree—law with justice. In reviewing this data system, I have been particularly concerned that we insure the safeguarding of the basic rights of privacy of every citizen and the basic rights protected by our Constitution and the various state constitutions.

(1) Do you agree that these computer systems are of tremendous importance to the safety and welfare of all Americans?

(2) Do you agree that there is a possibility of abuse in the use of these systems?

(3) Do you agree that such abuse, if it occured, would endanger the public support and confidence necessary for the best functioning of these systems?

(4) If so, do you feel that Congress, in exercising its Constitutional responsibilities, must concern itself with ensuring that these systems are operating according to standards which make the possibility of abuse minimal, while ensuring that the systems will serve the law enforcement needs of the nation?

(5) If this is the case, do you believe that it would be useful to have a wisely drawn statute which would set forth the purposes, scope, and general operating guidelines for the NCIC and similar systems? Do you feel that S. 2546 (92nd Congress) is adequate? If the Congress or this Committee should determine that there is a need for such statutory guidelines, would you cooperate fully in preparing such legislation? Would it be possible for you to submit to this Committee your suggestions in some detail, and recommendations of what such a statute should contain? If so, would you do so within the month so that the Committee could immediately consider such legislation?

(6) Do you affirm Mr. Gray's policy that the F.B.I. will support civil and criminal penalties for the unauthorized dissemination of a criminal history record?

(7) How many individual files are now contained in the NCIC? How many of these are summary files: How many are complete files? How do you distinguish between the two categories? What would be your personal estimate as to the rate of growth in the number of files that would be contained in the NCIC over the next year, five years, ten years? Do your answers represent any changes from the responses to these questions supplied by Mr. Gray during his hearings? If so please identify them.

(8) How many of the files above are criminal history files of particular individuals? How many of these are summary files? How many are complete files? What is your personal estimate as to the number of such files the NCIC will contain or have access to in one year, five years, ten years? Do your answers represent any changes from the responses to these questions supplied by Mr. Gray during his hearings? If so, please identify them.

(9) In answering questions 7 and 8 above, do these figures include files stored in state systems? If not, what is your estimate of the number of files stored in those systems?

(10) The F.B.I. role in the operation of NCIC is often referred to as a "switching" operation. To what does this have reference? Give some examples of the use of the system that will demonstrate its maximum capabilities in terms of time, geography, and information. Are there any limits on the ability of a local unit to reach any other part of the network? Is all information available to such units? To policemen on the street? Without such limitations, is it proper to think of the NCIC system as just those records contained in the Federal computer?

(11) What volume of traffic by way of inquiries for criminal histories does NCIC have now on an average monthly basis? How many such inquiries on an average monthly basis have been received from Los Angeles? San Francisco? Houston? Chicago? New York? Atlanta? How many requests has Kansas City made in the last year which obtained criminal histories from NCIC in Washington? From New York? From Atlanta? From Chicago? From Houston? From San Francisco? From Los Angeles?

(12) Do the NCIC Operating Manual and the document entitled "National Crime Information Center, Computerized Criminal History Program, Background, Concept and Policy, As Approved by NCIC Advisory Policy Board," dated September 20, 1972, represent the complete published guidelines for operation of the NCIC at this time? If not, what other guidelines exist and in what form are they to be found? Please submit them if they exist? Have any of these guidelines been amended within the last year?

(13) What justifications exist for making NCIC information available to Federal agencies which are not law enforcement agencies? Should only those agencies which now have direct access (under Part III of the Policy Paper of September 20, 1972) to criminal history information be allowed to receive it? If other Federal agencies are to continue to receive criminal history information, what safeguards do you plan to institute for the use and security of such information? Should arrest records be distributed without disposition?

(14) In Mr. Gray's response to my written questions at the time of his confirmation hearings, he indicated that computer criminal history records were governed by Public Law 92–184 which prohibits their dissemination for use in connection with licensing or local or state employment, other than with a criminal justice agency. He also indicated that fingerprint records are disseminated in treatment of these two types of files? Do they not contain essentially the same type of information? Is there a legal ground for such a distinction? A policy ground? Shouldn't there be one policy?

(15) Will you develop model state regulations with proper safeguards for the use of state computer systems? Do you have authority to require adoption of such regulations? Are such safeguards negotiable items in the negotiation of contracts with states for tie-in to the NCIC system? Will you prepare a compilation of current state regulations and provide them to the Committee? Please attach copies of these now on file to the answers submitted to these questions. Will you conduct a survey of these state regulations and safeguards and evaluate them against minimum requirements you believe should be required? Will you then provide this Committee with a copy of that survey and evaluation? How do you monitor state systems for compliance with contracts and regulations?

(16) Mr. Gray responded to a question by stating that the right of an individual to inspect his NCIC files is patterned on the current procedure for inspection of fingerprint files. This in turn requires a party to go through the original arresting agency. Why should a citizen not be allowed to inquire of the system at any point the content of his own file at any point in the network? What limitations, if any should be placed on this right and with what justification? Should notice be given to every person of the existence of this file by appropriate means? What is the procedure if a person objects to the inclusion of some or all of the material in his file: Does he have a right to petition for removal? A right to appeal from an adverse determination?

(17) How is purging of NCIC files of erroneous, obsolete or improper data accomplished? How often is it done? What are the criteria for removal of information? Does economy of storage play a role in the addition of information to a file? In its deletion? What assumptions does the purging operation make about the passage of time? About other factors? Is constant updating required of states using the system? Should purging be subject to the various policies of each state?

(18) Should the FBI continue to have authority over the NCIC system? Should the NCIC system be placed under the authority of an independent agency? Under authority established by the Congress and run by the states? Under LEAA? What are the considerations you believe should govern this determination?

(19) How many FBI employees are presently involved in the operation (including supervisory and planning personnel) of the NCIC system?

(20) What planning capabilities does the FBI have for considering the implications of future developments in computer technology? How many persons are presently assigned to such planning?

(21) What is the current membership of the NCIC Advisory Policy Board? What is the current membership of the permanent Committee in the Security and Confidentiality? Do you believe that these committees should have broad representation? How many members of these committees are currently police officers? Other Criminal Justice areas? From other walks of life?

(22) Do you intend to seek more temporary authority as a result of the *Menard* decision to distribute arrest records? Will you submit formal legislation for permanent authority?

ANSWERS TO QUESTIONS BY SENATOR MATHIAS IN WRITING TO CLARENCE M. KELLEY

PART I

Where possible I will be responsive to the questions of Senator Mathias. Those questions which require data or information not now available to me I would respectfully ask to defer until I have had an opportunity to review the necessary information.

1. I am of the opinion that a statutory basis for the FBI and the Director would be proper, but I am also strongly of the opinion that it should not be overly restrictive and detailed so as to hamper the FBI in the exercise of its law enforcement functions. I would certainly cooperate in drafting such a statute; however, the submission of a draft proposal and the timing thereof are matters that are within the discretion of the Attorney General. Moreover, such a legislative proposal would be subject to all of the normal clearance procedures.

2. Yes.

3. I am not completely familiar with the study to which Mr. Zeisel refers. However, Mr. Zeisel may be trying to compare data which is not directly applicable to the FBI study. I would have to inquire further into

this matter to furnish a more responsive answer.

I certainly agree that crime statistics need to be reliable. The Uniform Crime Reporting Program is a voluntary, cooperative effort of law enforcement to develop national crime statistics. It is administrated by the FBI, and the Committee on Uniform Crime Records of the International Association of Chiefs of Police is an advisory body of the program. I am not aware of all of the details: however, I do know the FBI for several years has been encouraging states to develop mandatory state crime reporting programs. I believe this is a step in the right direction to improve the overall quality of crime statistics.

4. The phrase "in contemplation of prosecution" was used to suggest that the proper activating purpose of domestic intelligence gathering is the discovery of evidence of a federal crime within the jurisdiction of the FBI. Domestic intelligence gathering should never be conducted capriciously. On the other hand, it would unduly hamper the FBI or any law enforcement agency if probable cause were to be the standard to be met before even initiating an investigation of crime.

5. I agree that the FBI should not draw legal conclusions about the evidence it produces. Whether such evidence justifies prosecution, for example, is a question best left to United States Attorneys or one of the legal divisions of the Department of Justice. I agree that the FBI should not become a national police force. It should confine its activities to the investigation of specific crimes assigned to it by Congress; moreover, the FBI should not assume jurisdiction over local crimes. This is where the spectre of a national police force looms largest in the minds of the public.

6. I would oppose wiretapping a newsman for the purpose of discovering his news sources unless that activity seemed clearly warranted under the circumstances because of some reasonable apprehension that the national security is endangered. In that situation, the President has an obligation to do what is necessary to protect the national security even if it entails eavesdropping on a newsman.

7. Yes, I agree with the language of Congress (Section 101 of Public Law 91–508) ". . . that adequate records maintained by insured banks have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings." I think that law enforcement is greatly aided by law enforcement agency access to these bank records.

I would oppose a requirement for obtaining a warrant before access, on grounds that customers of financial institutions have no proprietary interest in the records kept by the institutions and that there are no constitutional inhibitions which prohibit reasonable inspections of these financial records by the Government. Such records are the property of the financial institutions maintaining them. I am of course aware of the sensitivity of this area and feel that law enforcement agencies must be very careful in their dealing with financial institutions.

PART II

1. Yes.

2. Yes.

3. Abuses for which there are no sanctions would endanger public support and confidence. Procedures should be developed to recognize and correct abuses quickly.

4. Yes.

5. I do believe that it would be useful to have such a wisely drawn statute. Concerning S. 2546 (92nd Cong.), I am not familiar with the bill's specifics and am therefore not in a position to discuss its adequacy. If Congress determines that legislation is desirable, I would be willing to cooperate fully in its preparation. I must point out, however, that any policy determinations would be subject to the approval of the Attorney General. I am informed that the Department of Justice, including the FBI, is currently in the process of formulating legislative recommendations. I am unable to say, however, whether any legislation could be submitted within the month. Again, the proposal would be subject to the usual clearance procedure.

6. Yes.

7 & 8. As of May 1, 1973, there were 4,192,342 active records in NCIC with the breakdown showing 129,609 wanted person, 811,764 vehicle, 252,384 license plate, 706,828 article, 594,279 gun, 1,393,097 securities, 6,852 boat, and 297,529 criminal history records. The files on wanted persons and stolen property are index-type records pointing to case files of the agencies which hold the warrants or theft reports. The computerized criminal history records represent 297,529 individuals. All records in the Computerized Criminal History File are complete records at this time. A computer-generated summary may be extracted from the complete record upon request. A separate summary record is not maintained in file. I do not have the information available to estimate the rate of growth of the number of files in NCIC in the future. My answers do not represent any changes from Mr. Gray's responses except, of course, as to the file sizes in NCIC which have changed since his testimony.

9. My answers in 7 and 8 do not include files stored in state systems and I have no basis for estimating the number of files stored in those systems.

10. The "switching" operation relates to the concept of message switching. Currently the NCIC system only allows activity from a remote terminal to the NCIC computerized files with no cross traffic. Message switching as applied to the NCIC system would allow criminal justice agencies to communicate with each other, with their messages being switched by the NCIC computer. The extent to which such switching could be used would depend upon the procedures and discipline established for such a system. The NCIC program would be one facet of such a communications network and it would not be proper to attribute records of other criminal justice agencies on the network to the NCIC system.

I am not unaware of the desirability of inclusion of information regarding disposition of arrests. The improved communications capability that switching offers would enhance NCIC's ability to obtain information on dispositions.

11. I do not have this information available, except as to Kansas City. During calendar year 1972, the Kansas City Police Department requested for its own use 635 summaries and 138 "rap sheets." It also obtained a total of 2207 summaries and 357 "rap sheets" for all users on its system, which include other law enforcement agencies in the Kansas City, Missouri, area.

12. To my knowledge the NCIC Operating Manual and the document entitled "National Crime Information Center, Computerized Criminal History Program, Background, Concept, and Policy, as Approved by NCIC Advisory Policy Board," dated September 20, 1972, represent the complete published guidelines for operation of the NCIC at this time.

There have been no changes in the guidelines appearing in the above references since they were last furnished to the Committee during Mr. Gray's hearings.

13. I am informed that the issues raised by this question, *i.e.*, the extent to which federal agencies of a non-law enforcement character should have access to NCIC, *etc.*, are currently being discussed among interested government agencies, including the FBI, with a view toward formulating policy recommendations. For this reason, I believe that it would be inappropriate for me to treat these issues until such time as I have had the opportunity to review those recommendations.

14. The dissemination of so-called "fingerprint records" is, in fact, governed by the provisions contained in Title II of Public Law 92–544, substantively identical to those of Section 902 of Public Law 92–184. (Public Law 92–184 was the Supplemental Appropriations Act of 1972 for the fiscal year ending June 30, 1972; Public Law 92–544 makes appropriations for fiscal year 1973.) The provisions permit the exchange of such records with officials of state and local governments for purposes of employment and licensing if authorized by state statute and approved by the Attorney General. Thus, there is no distinction with respect to the dissemination of fingerprint records.

15. I believe it would be presumptuous and beyond FBI authority to require state regulations for the use of state computer systems other than with respect to the use of data obtained from NCIC. Safeguards established by the NCIC Advisory Policy Board are not negotiable items and states must agree in writing to these safeguards before access to the Computerized Criminal History File is granted. I do not believe that safeguards for state criminal justice information systems unrelated to the Computerized Criminal History File should be subject to the control of the NCIC Advisory Policy Board, NCIC or the FBI. As to preparing a compilation of current state regulations, I do not know at this time what this entails or the extent to which it is possible to collect authoritative sets of regulations. I do not believe I would have the authority to require states to furnish me with their state regulations and safeguards for their own systems. The safeguards required for the Computerized Criminal History File are stringent and specific and must be adopted by the states for participation in this Program. Representatives of the FBI/NCIC staff visit with state systems for the purpose of consulting with them and reviewing their compliance with systems requirements.

16. The requirement that a citizen inquire regarding the content of his NCIC file through the original arresting agency rather than at some other point in the NCIC network is based on the fact that the original arresting agency is responsible for the NCIC file and for insuring that the citizen is positively matched with his own criminal history record. As to limitations that should be placed on the citizen's right of inquiry, he should have a reasonable basis to support his need, excluding mere curiosity, otherwise such inquiries could constitute an unmanageable administrative burden. As to whether notice should be given to every person of the existence of his file, it is observed that such file is based on an arrest in connection with which the citizen was fingerprinted and he therefore should be aware of the existence of the file. An individual may request expungement of his record through the arresting agency which entered it. If denied expungement, he may petition the courts and, if unsuccessful in his petition, he has the right of appeal.

17. There is no automatic purging of NCIC criminal history files at present. Removal of information is, however, presently effected upon the request of the originating agency. To my knowledge, economy of storage does not play an appreciable role in either adding or deleting information from the system. States are strongly encouraged to submit new and corrected information to NCIC as it becomes available. With respect to other inquiries concerning purging and updating of files, I am not in a position to respond, as these issues are being actively discussed among the appropriate agencies with a view toward establishing standards.

18. I believe the FBI should continue in its present role with respect to NCIC. I see

no need for an independent agency. The idea of operation by the states was rejected some time ago in favor of the current approach, which I consider sounder. Because there is a need for law enforcement expertise and permanency in the agency responsible for NCIC, I think the FBI is best suited for the role. Additionally, the FBI still carries an excellent reputation for integrity and competence among other law enforcement agencies on the state and local levels.

19. I do not have this information available.

20. I do not have this information available.

21. I submit to the Committee a paper listing NCIC Advisory Policy Board members. The term of the Committee on Security and Confidentiality has expired and the Chairman of the NCIC Advisory Policy Board is currently reconstituting this Committee. I believe the Board and the Committee should have broad representation from the criminal justice community since this is a criminal justice information system. The NCIC Advisory Policy Board members who were elected by the system users are members of law enforcement agencies. I subscribe to the position of the Policy Board that individuals from other segments of the criminal justice community also sit as members of the Board.

22. I am not sufficiently familiar with the *Menard* decision you refer to. I recognize however, the sensitivity involved in the dissemination of arrest records and will carefully study the issue as soon as possible after I am confirmed. As I have mentioned earlier, any legislative proposal would be submitted by the Attorney General after he receives my recommendations.

Mr. KENNEDY. Mr. President, today's confirmation vote by the Senate may be one of the most significant actions the Senate takes this year if we make clear what we think it ought to mean.

The Select Committee testimony and other information disclosed over the past few months makes clear that the massive investigative apparatus of the Federal Government has been misused and abused in every conceivable way for grossly political purposes. We now know that the FBI, the IRS, the CIA, the Customs Bureau, the Criminal Division of the Justice Department, the SEC, and the Parole Board were all subject to the corrupting influence of White House political agents. Beyond that, the White House had its own secret police units operating outside of regular channels and performing missions so criminal and so outrageously improper that even the corruptible elements of the existing investigative agencies could not be trusted to participate.

What is most frightening is that these tactics were used not for any immediate financial gain to any of the participants, but solely to consolidate and perpetuate the political power of the current administration. Thus they not only violated, but made a total mockery of, the central concepts of limited government, due process, and fairness that lie at the heart of our Constitution and our democracy. In fact, it is now clear in retrospect that there was a complete breakdown of law and order within the executive branch, that the voices of totalitarianism were spoken, heard, and at least partially listened to in the highest councils of the land, that they were seeking to transmute the political enemies of the President into official enemies of the people against whom all the force of government power would be turned.

Only the happenstances of June 17, 1972, truncated that process. If not for those happenstances, we would still be falling further into the grip of forces who might have destroyed our Nation and our freedom as we have known them for nearly 200 years.

We must not miss this chance to root out both the people and the processes, as well as the principles, which allowed this internal subversion of our Government to occur. And no one will be more important to this process than the man whose nomination we will vote on today. The shoes he has to fill were large enough even before June 1972.

Whatever other problems there may have been with Mr. Hoover in the past, we know Mr. Hoover in 1970 was a bastion of reason and restraint against the forces of reaction and over-reaction that were constantly pressing him to violate his constitutional oath, his public responsibilities, and his own standards of ethics. We also now know that Mr. Hoover's original successor, who could have blown the whistle last summer on Watergate and the Watergate coverup, as well as on other White House improprieties, failed to do so.

Mr. Kelley's task is therefore manifold. The FBI staff includes some of the most professional and competent law enforcement personnel in the world. But if there are any people left in the Bureau who participated or acquiesced in the excesses of recent years, then they must be eliminated. Next it is important that the new director complement the existing staff by bringing in new people with fresh approaches and different perspectives. Next he must audit all of the past activities and procedures of the Bureau so that he can set standards for the future which will assure that the Bureau is never misused or abused again. Then he must assist in the process of cleansing the rest of the Federal Government of the debris of the Watergate conspiracy in all its prior and subsequent manifestations, as well as in the process of prosecuting all those whose violations of the law under color of law have tainted the entire Federal structure.

That is a big order. We are all hopeful that Chief Kelley is a big enough man to fill that order. He has assured us that he will be able to stand up to the White House and to the President himself if necessary, if anyone tries to compromise his independence from political influence. We hope this assurance will not even have to be tested and that he will be allowed to work his will without interference from those who have brought the Nation to this sorry pass.

We want to wish Chief Kelley good luck, and express what I think is the support of all of us for his work in the months and years ahead.

Mr. ROBERT C. BYRD. Mr. President, at the suggestion of the distinguished majority leader and in order to accommodate all Senators who may be attending committee meetings shortly, I ask unanimous consent that the vote on the nomination of Mr. Clarence Kelley occur at the hour of 12:30 p.m. today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

DEPARTMENT OF COMMERCE

Mr. MANSFIELD. Mr. President, there is one more nomination on the calendar.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Sidney L. Jones, of Michigan, to be Assistant Secretary of Commerce.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire (Mr. McINTYRE) is recognized for not to exceed 15 minutes.

(The remarks Senator McINTYRE made at this point on the introduction of S. 2082, the Petroleum Marketing Divorcement Act of 1973, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

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

Mr. MANSFIELD. Mr. President, would the Senator withhold that request for a moment?

Mr. McINTYRE. Mr. President, I withhold my request.

FEDERAL ELECTIONS DAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 207 (S. 343), a bill to designate the Tuesday next after the first Monday in October as the day for Federal elections.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

Calendar No. 207 (S. 343) a bill to designate the Tuesday next after the first Monday in October as the day for federal elections.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Rules and Administration with amendments on page 1, line 5, after the word "The", insert "first"; in the same line, after the word "Tuesday", strike out "next after the first Monday"; at the beginning of line 9, strike out "This section shall not apply to any State that has not changed its day of election of State officers, and whose constitution must be amended in order to

effect a change in the day of the election of State officers in that state."."; on page 2, line 6, after the word "the", insert "first"; in the same line, after the word "Tuesday", strike out "next after the first Monday"; and, after line 8, insert:

SEC. 2. (a) If, under the law of any State, the candidate of a political party for election to the Senate or to the House of Representatives is determined by a primary election or by a convention conducted by that party, the primary election or convention shall be held at any time during the period beginning on the first Tuesday in June and ending on the first Tuesday in August. If a subsequent, additional primary election is necessary to determine the nominee of any political party in a State, that additional election shall be held within thirty days after the date of the first such primary eelction.

(b) For purposes of this section—

(1) the term "State" means each of the several States of the United States, the Commonwealth of Puerto Rico, the Territory of Guam, and the Territory of the Virgin Islands; and

(2) a candidate for election as Resident Commissioner to the United States, in the case of the Commonwealth of Puerto Rico, or as Delegate to the House of Representatives, in the case of the Territory of Guam or the Territory of the Virgin Islands, shall be considered to be a candidate for election to the House of Representatives.

SEC. 3. (a) The District of Columbia Election Act (D.C. Code, secs. 1–1100—1–1115) is amended by—

(1) striking out "the first Tuesday following the first Monday in November" in section 7(d)(1) (D.C. Code, sec. 1–1107(d)(1)) and inserting: "the first Tuesday in October";

(2) striking out "the Tuesday next after the first Monday in November" in paragraphs (2) and (3) of section 10(a) (D.C. Code, sec. 1–1110(a) (2) and (3)) and insert in lieu thereof the following: "the first Tuesday in October";

(3) striking out "the first Tuesday in May" in section 10(a)(3) (D.C. Code, sec. 1110(a)(3)) and inserting "the first Tuesday in June" ; and

(4) striking out "not less than two weeks nor more than six weeks after the date on which the Board has determined the results" in section 10(a)(4) (D.C. Code, sec. 1–1110(a)(4)) and inserting "not more than 30 days after the date".

(b) Section 2(a) of the Act entitled "An Act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives", approved April 10, 1972 (86 Stat. 119; 48 U.S.C. 1712) is amended by striking out "at the general election of 1972, and thereafter at such general election every second year thereafter" and inserting in lieu thereof the following: "on the first Tuesday in October of every even-numbered year."

(c) Notwithstanding the provisions of the second sentence of section 36 of the Act entitled "An Act to provide a civil government for Porto Rico, and for other purposes", approved March 2, 1917 (39 Stat. 963; 48 U.S.C. 891), the qualified electors of Puerto Rico shall choose a Resident Commissioner on the first Tuesday in October of each year in which the Resident Commissioner is to be elected.

SEC. 4. (a) The Congress finds that—

(1) the conventions held by national political parties for the purpose of nominating candidates for the offices of President and Vice President constitute an integral part of the process by which such officers are chosen by the people of the United States;

(2) by limiting the length of time during which the general election campaign for election to such offices occurs, the integrity of the electoral process is better secured; and

(3) in order to protect the integrity of the Presidential election process and to provide for the general welfare of the Nation, it is necessary and proper for the Congress to regulate the part of that process relating to the nomination of candidates for election to the office of President by prescribing the time during which such conventions shall be held.

(b) Any political party which nominates its candidate for election to the office of President by national nominating convention shall hold that convention beginning in the month of August of the year in which the President and Vice President are elected.

(c) The district courts of the United States shall have jurisdiction, upon application made by the Attorney General, to enjoin the members of a political party from conducting a national nominating convention for the purpose of nominating the candidate of that party for election to the office of President in violation of the provisions of subsection (b).

SEC. 5. This Act shall take effect on January 1, 1976.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 25 of the Revised Statutes, as amended (2 U.S.C. 7), is amended to read as follows:

"SEC. 25. The first Tuesday in October of every even-numbered year is established as the day for the election of Representatives to the Congress commencing on the 3d day of January next thereafter.

(b) The text of section 1 of title 3, United States Code, is amended to read as follows:

"The electors of the President and Vice President shall be appointed, in each State, on the first Tuesday in October in every fourth year succeeding every election of a President and Vice President.".

SEC. 2. (a) If, under the law of any State, the candidate of a political party for election to the Senate or to the House of Representatives is determined by a primary election or by a convention conducted by that party, the primary election or convention shall be held at any time during the period beginning on the first Tuesday in June and ending on the first Tuesday in August. If a subsequent, additional primary election is necessary to determine the nominee of any political party in a State, that additional election shall be held within thirty days after the date of the first such primary election.

(b) For purposes of this section—

(1) the term "State" means each of the several States of the United States, the Commonwealth of Puerto Rico, the Territory of Guam, and the Territory of the Virgin Islands; and

(2) a candidate for election as Resident Commissioner to the United States, in the case of the Commonwealth of Puerto Rico, or as Delegate to the House of Representatives, in the case of the Territory of Guam or the Territory of the Virgin Islands, shall be considered to be a candidate for election to the House of Representatives.

SEC. 3. (a) The District of Columbia Election Act (D.C. Code, secs. 1–1100—1–1115) is amended by—

(1) striking out "the first Tuesday following the first Monday in November" in section 7(d)(1) (D.C. Code, sec. 1–1107(d)(1)) and inserting: "the first Tuesday in October";

(2) striking out "the Tuesday next after the first Monday in November" in paragraphs (2) and (3) of section 10(a) (D.C. Code, sec. 1–1110(a) (2) and (3)) and insert in lieu thereof the following: "the first Tuesday in October";

(3) striking out "the first Tuesday in May" in section 10(a)(3) (D.C. Code, sec. 1110(a)(3)) and inserting "the first Tuesday in June"; and

(4) striking out "not less than two weeks nor more than six weeks after the date on which the Board has determined the results" in section 10(a)(4) (D.C. Code, sec. 1–1110(a)(4)) and inserting "not more than 30 days after the date".

(b) Section 2(a) of the Act entitled "An Act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives", approved April 10, 1972 (86 Stat. 119; 48 U.S.C. 1712) is amended by striking out "at the general election of 1972, and thereafter at such general election every second year thereafter" and inserting in lieu thereof the following: "on the first Tuesday in October of every even-numbered year."

(c) Notwithstanding the provisions of the second sentence of section 36 of the Act entitled "An Act to provide a civil government for Puerto Rico, and for other purposes", approved March 2, 1917 (39 Stat. 963; 48 U.S.C. 891), the qualified electors of Puerto Rico shall choose a Residential Commissioner on the first Tuesday in October of each year in which the Resident Commissioner is to be elected.

SEC. 4. (a) The Congress finds that—

(1) the conventions held by national political parties for the purpose of nominating candidates for the offices of President and Vice President constitute an integral part of the process by which such officers are chosen by the people of the United States;

(2) by limiting the length of time during which the general election campaign for election to such offices occurs, the integrity of the electoral process is better secured; and

(3) in order to protect the integrity of the Presidential election process and to provide for the general welfare of the Nation, it is necessary and proper for the Congress to regulate the part of that process relating to the nomination of candidates for election to the office of President by prescribing the time during which such conventions shall be held.

(b) Any political party which nominates its candidate for election to the office of President by national nominating convention shall hold that convention beginning in the month of August of the year in which the President and Vice President are elected.

(c) The district courts of the United States shall have jurisdiction, upon application made by the Attorney General, to enjoin the members of a political party from conducting a national nominating convention for the purpose of nominating the candidate of that party for election to the office of President in violation of the provisions of subsection (b).

SEC. 5. This Act shall take effect on January 1, 1976.

Mr. MANSFIELD. Mr. President, for the information of the Senate, the Senate has been on notice that this matter might be called up at any time. We have asked our colleagues on the Republican side to notify the Senators who have expressed an interest in this proposal. I see that one is on the floor at the present time, and the others at least have been notified and, I assume, will be here shortly.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Jim Duffy and Mr. Jim Medill, of the staff of the Committee on Rules and Administration, may be authorized to have the privilege of the floor during debate on the bill.

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

Mr. COOK. Mr. President, I ask unanimous consent that Joseph O'Leary, of the committee staff be granted the privilege of the floor during debate on the bill, S. 343.

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

Mr. ROBERT C. BYRD. Mr. President, are there committee amendments pending?

The PRESIDING OFFICER. There are committee amendments.

Mr. ROBERT C. BYRD. I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

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

Mr. ROBERT C. BYRD. 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. ROBERT C. BYRD. 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 1, line 6, strike "October" and insert "November;"

On page 2, line 7, strike "October" and insert "November;"

On page 2, line 14, strike "June" and insert "August;"

On page 2 line 14 place period after word "August" and strike the rest of the sentence.

On page 3, strike lines 8 through 16 and insert in lieu thereof the following:

(1) striking out "Following the first Monday" 7(d)(1) (D.C. Code, sec. 1–1107(d)(1);

(2) striking out "Tuesday next after the first Monday" in paragraphs 2 and 3 of sections 10(a) (D.C. Code, sec. 1–1110(a)(2) and (3) and insert in lieu thereof "first Tuesday;"

On page 3, line 19, strike "June" and insert "August;"

On page 4, line 7, strike "October" and insert "November;"

On page 4, line 14, strike "October" and insert "November;"

On page 5, lines 10 and 11, strike "in the month" and insert "on the third Monday."

Mr. ROBERT C. BYRD. I yield myself such time as I may require from the time on the amendment which is under my control.

Mr. President, I am offering an amendment to S. 343, an amendment which would provide for congressional primary elections to be held no earlier than the first Tuesday in August and to provide that national conventions begin no sooner than the third Monday in August. Hence, the bill, if thusly amended, will differ from what it was when I originally introduced it in January of this year, and it will differ from the form in which it was reported with overwhelming approval from the Committee on Rules and Administration on June 13.

After both public hearings and executive sessions to consider the proposal, the reported bill set the general election date as the first Tuesday in October. It further provided that Federal primaries were to be held between the first Tuesday in June and the first Tuesday in August, and that national conventions were to be held in August.

I would like to briefly note the valid objections that were raised subsequent to the committee's reporting the bill to the floor.

First, it was pointed out that a number of Jewish holidays occur in October, and an election date anytime during that month could make it impossible for some members of the Jewish faith to exercise their privilege to vote.

Second, the advent of the 18-year-old vote and a series of court decisions have increased the number of college students who vote in their university towns. Since the usual registration requirement is a 30-day residency, and since most students do not arrive on campus until sometime in September, an October election date could be a hindrance to their casting ballots.

I thank the Senators who raised these objections, and share their concern for maintaining the solemnity of religious holidays, and for the need to encourage young people to vote.

I believe that the bill as amended by my amendment, will accomplish the same goals as the original bill, namely, it will shorten the primary-election-to-general-election period, reduce campaign expenditures, and renew the waning interest of citizens in the electoral process.

Primary elections for candidates for the Senate and the House of Representatives currently range from the month of March into the month of October, or two-thirds of the entire year. Presidential primaries for the 1972 nominations were spread out almost as far across the year, making an enormously lengthy campaign that could not help but give voter apathy a boost. In fact, the Gallup Opinion Index for December 1972, said of the less than 55 percent voter turnout in the 1972 election that: "to a certain extent, the widespread voter apathy recorded this year can be charged against the lengthiness of the presidential campaign."

And the long, drawn-out campaign of that year was the most expensive in this Nation's history. According to Herbert E. Alexander, director of the Citizens' Research Foundation in Princeton, N.J., the 1972 presidential race alone cost about $100 million. Contests for the Senate and the House of Representatives cost about another $100 million according to Mr. Alexander.

S. 343 is intended as a remedy for the prolonged, exhausting—and, yes, even boring—political campaign periods in the United States. It is intended as a brake upon the exorbitant and soaring costs of campaigning, and would be perfectly compatible with a companion bill that would set an overall limit on campaign spending.

It is further intended as a standard to establish greater uniformity and certainty to primary and general elections throughout the nation. If public financing of elections should become a reality, or if an overall limit is eventually set, then S. 343 will help to establish a better and tighter framework for more accurate accounting and distribution of financial support to candidates.

The Congress has clear authority under the Constitution to determine the time of choosing presidential electors and the day on which they cast their votes—article II, section 1, U.S. Constitution—and to regulate the congressional elections—article I, section 4. The Supreme Court has held on many occasions that the Congress has power to regulate the entire subject of congressional elections, including primaries which are an integral part of the elective process—*Smily* v. *Holm*, 285 U.S. 355 (1932); *U.S.* v. *Classic*, 313 U.S. 399 (1941); *Smith* v. *Allwight*, 321 U.S. 649 (1944); *Burroughs and Cannon* v. *U.S.* 290 U.S. 534 (1933); and *Oregon* v. *Mitchell*, 400 U.S. 112 (1970).

Moreover, it is apparent that any meaningful regulation of campaign spending or of any public financing of election campaigns will require some degree of uniformity in timing of those campaigns. Controls over beginnings and endings of contributions and expenditures depend upon more or less specific dates on which election campaigns begin or end.

The report of the committee incorrectly states that national nominating conventions would not be affected by the bill. Final committee action on the bill, taken after the report had been prepared, resulted in setting a time for the holding of those conventions in order to preserve consistent control over the entire Federal nominating and elective processes.

The committee was reluctant to specifically include presidential preference primaries within the provisions of the bill since those are really State elections for the purpose of allowing the voters to express a preference for certain of the individuals who enter the preference primary in each State.

It is true that the bill will require the States to take necessary steps to bring their constitutions and laws into conformity with Federal law, but the bill gives the States until January 1, 1976, to act—a period of 2½ years.

The Congress knows that steps must be taken to remedy deficiencies in the elective process and efforts are being directed in many areas.

A new Federal Election Campaign Act will soon be reported to the Senate. It will recommend changes to existing law on a comprehensive scope.

S. 343 is the forerunner of these proposals and its objectives are worthy of support.

Mr. COOK. Mr. President, will the distinguished Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I am happy to yield to the Senator from Kentucky.

Mr. COOK. Mr. President, I rise in support of S. 343, as amended, by the distinguished Senator from West Virginia. We have been wrestling with the bill for quite some time and I have been working very closely with the Senator from West Virginia relative to working out various problems—also with the distinguished Senator from New York (Mr. JAVITS).

There are many ways to try to solve the problem of tremendous campaign expenditures, all of which has been rather offensive to the American public. Second, the problem of how we try, at least to the

best of our ability, and also for the benefit of the American public, to keep from really boring them to death because of the length of a campaign, we felt, along with the proposal that we will make to the Senate shortly, which will be S. 372, which we are now marking up—which is a campaign expenditure bill—that if, in fact, we took the time frame and squeezed it together so that we had a short campaign period, we would be solving many of the financial problems and many other problems in regard to the voting public.

So, Mr. President, in essence what the bill would do would be to provide that no State or Federal office—that is, the offices of the Congress and for the U.S. Senate—may have a primary in their State on or before the first Tuesday in August; and, as of that day—well, whenever they want to, whether in August or September, although some States have them as late as the first week in October, but, unfortunately for the participating public, some of them have them as early as February and March—we would then provide that the respective national committees of the national parties, regardless of their number, may not hold their national conventions on or before the third Monday in August, which means that the period for the Presidential election will then be basically from the period after Labor Day and, in essence, until November.

We tried—and I think the Senator from New York will speak to the issue—we tried to bring the Federal election up into October, feeling that some States had a serious problem with weather, that it would be better if we could to try to get an election date of some time in the early part of October or the middle of October, but this was of necessity impossible.

So I think what we have really done is, we have given a respite to the American people and have also given a respite to the candidates. We have said that if this bill becomes law, henceforth, really, the competitive election between a Republican and a Democrat, or between an independent or a farm labor candidate in Wisconsin, that that general election—its competitive aspect—will now be limited to a duration no longer than from the first Tuesday in August to the first Tuesday in November.

You will notice also, Mr. President, that I say "the first Tuesday in November" and not "the first Tuesday after the first Monday" which is now the law, which means that, henceforth, we can conceivably even pick up a week and shorten the campaign and shorten the necessity of campaigning in the month of November, because sometimes, if the first day of the week comes on a Tuesday or a Wednesday, then it goes over to the following week.

Therefore, we now find ourselves in the position where we feel it necessary, because of the tremendous cost, because of the necessity to, really, in relation to S. 372, of trying and attempting to curtail the cost of campaigning, we felt also that it was necessary to bring the period down to a period of reality, rather than the long, drawn out, and arduous campaign that not only does the candidate have to put up with but also the American people have to put up with.

So, Mr. President, I strongly support the bill as amended and hope that we will handle it expeditiously.

I thank the Senator from West Virginia for yielding me this time.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Kentucky.

Mr. President, I ask unanimous consent that the time in opposition to this amendment—although he is not opposed to the amendment—be under the control of the Senator from Kentucky (Mr. COOK).

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Otherwise, I would be in control of the entire hour.

Now, Mr. President, let me thank my distinguished friend from Kentucky (Mr. COOK) for the very valuable efforts that he put forth during consideration of this bill in committee, and also for his valuable advice and counsel and contributions in connection with the formulation of the amendment which I have offered.

The amendment is offered—in the effort, as I have already indicated—to resolve the several problems which were brought to the attention of the author of the bill following the reporting of the bill by the committee.

The Senator from Kentucky (Mr. COOK) has rendered valuable assistance in this regard and I want to express my gratitude to him for such.

Mr. JAVITS. Mr. President, will the Senator from Kentucky yield me some time?

Mr. COOK. I yield such time to the Senator from New York as he may require.

Mr. JAVITS. Mr. President, I, too, have had a little hand in this matter for a peripheral reason which I will explain, but with great interest in the measure itself. The interest upon which I was especially consulted most thoughtfully by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), the principal author of the measure, was the effect it would have on the religious practices of the Jewish people with respect to the dates chosen for the various elective and primary responsibilities under the bill.

As a result of that consultation, Mr. President, the date chosen, again through the real thoughtfulness and Americanism of Senators ROBERT C. BYRD and COOK and others who participated with us, has given accommodation to religious observances by people of the Jewish faith, of the different branches of that faith—Orthodox, Reform, and so forth. This is all to the good. So that the bill, in my judgment, now accommodates these requirements.

As to the merits of the bill itself, as one who has run for election on a statewide level in the second most populous State in our Nation, I can testify to the need for these reforms. The cost of campaigns is much too high, engendering practices which create climates in which Watergates become possible. The length of time taken in campaigning is both distracting and unnecessary in terms of the knowledgeability of the people and completely draining to the candidates, both in physical terms and in terms of the cost which they are required to raise. This creates a great deal of mischief, or opportunities for mischief. Therefore, any effort to shorten the time of campaigning, such as is made by this bill, and to help us in these respects is essential.

Mr. President, I am also very pleased to see that an effort is made to hold down even national campaigning by setting an outside date for the holding of the national nominating conventions. There is no doubt that, while this is a partial reform, the total reform remains yet to be made, and that is the cost of campaigning itself, especially the cost of using the media of television and radio. This represents, in my own experience, well in excess of 50 percent of the total cost of campaigning; yet, the use of the airwaves belongs to the public.

I cannot believe that we cannot contrive a fair system by which challenges will be recognized, and even representatives of minority parties adequately recognized, without this almost backbreaking burden of cost on the individual candidate and his supporters.

I look to this measure as a threshold toward real campaign reform, a very desirable threshold—the Senator from West Virginia is to be congratulated on it—but a threshold nonetheless.

Mr. President, I should like to address one question to the Senator from West Virginia, because I think the record needs to be clear on this point.

When we discussed the matter preliminarily, we discussed the possibility of even moving election day to a date in October. I have explained the thoughtfulness which dictated Senator BYRD's willingness to forego that contraction of the campaigning period and to do it at the other end—to wit, the primary.

The question I should like to ask the Senator, because I think the record should be clear on it, is this: If we are—because there are good reasons for it, and I understand there is a certain amount of sentiment among the Governors of the States in that regard—going to leave the date of the Federal election relatively unchanged—I use the word "relatively" advisedly—to wit, in November, is it desirable to make any change at all, which can only mean 2 or 3 days at most in any election, or should we not just leave it as it is today, because I wish the record to show that there is a change—to wit, the first Tuesday—and it may in some years mean bringing election day a few days earlier?

Again, I have no profound feeling on the matter. But I think that when the measure goes to the other body, they ought to have some statement from the Senator from West Virginia as to the reason for a change which would seem on its face to be very minor; yet, the Senator may have some significance in mind which is not apparent in the law itself.

Mr. ROBERT C. BYRD. Mr. President, the change to which the distinguished Senator has addressed himself is a minor change. I think this can be said about it, however: One, it would mean the dif-

ference of approximately a week in the course of every 4 or 5 years.

At the present time, if the first day of November falls on a Tuesday, that means that the general election will occur on the 8th of November, because the present law provides for the election to be held on the first Tuesday after the first Monday. If the 1st of November falls on a Wednesday, that will not make any difference either way. If the 1st of November falls on a Thursday, that will not make any difference under present law or under the amendment. And so on.

But on that one occasion every five years or so when the 1st day of November falls on Tuesday, the amendment provides that the election shall be held on that day rather than to wait until the 8th of November.

Second, the amendment provides for parallel construction, in that it also provides for the primaries to be held on the first Tuesday in August. Therefore, we feel that the general election ought to be held on the first Tuesday in November. The effect is really minor. But insofar as the effect goes, I think it is beneficial rather than harmful.

Mr. JAVITS. The Senator makes it advisory. That is what I wanted to get on record. I congratulate the Senator from West Virginia on what is now a fine bill, and upon his thoughtful consideration of religious observances.

Mr. ROBERT C. BYRD. I thank the Senator from New York for his timely and worthwhile contributions to the amendment that I have offered.

As the Senator from Kentucky has pointed out, my original thought was that if the general election could be moved into the early part of October, it would at least avoid, in some years, the inclement weather conditions that we are often accustomed to in the month of November in West Virginia and Kentucky, and other States. But the arguments against moving the election into October were so persuasive that we have attempted to shorten the campaign by working rather from the earlier part of the year rather than from the general election end.

Mr. President, I ask unanimous consent to have a table printed at this point in the RECORD.

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

II. CONGRESSIONAL PRIMARIES

Date	Last date for filing declarations or petitions of candidacy	State
Mar. 21	Dec. 20, 1971	Illinois.
Apr. 25	Feb. 15, 1972	Pennsylvania.
May 2	Mar. 1	Alabama.
Do	Mar. 18	District of Columbia.
Do	Mar. 23	Indiana.
Do	Feb. 2	Ohio.
May 6	Feb. 21	North Carolina.
Do	Feb. 7	Texas.
May 9	Mar. 10	Nebraska.
Do	Feb. 5	West Virginia.
May 16	Mar. 6	Maryland.
May 23[1]		District of Columbia.
Do	Mar. 29	Kentucky.
Do	Mar. 14	Oregon.
May 30	Apr. 4	Arkansas.
Do[1]		Alabama.
June 3[1]		Texas.
Do[1]		North Carolina.
June 6	Mar. 15	California.
Do	Apr. 2	Iowa.
Do	Apr. 7	Mississippi.
Do	Apr. 27	Montana.
Do	do	New Jersey.
Do	Apr. 4	New Mexico.
Do	Apr. 21	South Dakota.
June 13	(2)	South Carolina.
Do[1]		Arkansas.
Do	Apr. 14	Virginia.
June 19	Apr. 1	Maine.
June 20	May 4	New York.
June 27[1]		South Carolina.
Do[1]		Mississippi.
Aug. 1	June 20	Kansas.
Aug. 3	June 1	Tennessee.
Aug. 8	June 14	Georgia.
Do	June 7	Idaho.
Do	June 20	Michigan.
Do	Apr. 25	Missouri.
Aug. 19	June 16	Louisiana.
Aug. 22	June 1	Alaska.
Do	July 12	Oklahoma.
Do	do	Wyoming.
Aug. 29[1]		Georgia.
Sept. 5	July 19	Nevada.
Do	July 27	North Dakota.
Sept. 9	(3)	Delaware.
Sept. 12	July 13	Arizona.
Do	July 28	Colorado.
Do	July 25	Florida.
Do	July 18	Minnesota.
Do	July 13	New Hampshire.
Do	June 30	Rhode Island.
Do	May 10	Utah.
Do	Aug. 3	Vermont.
Do	July 11	Wisconsin.
Sept. 19[1]		Oklahoma.
Do	July 11	Massachusetts.
Do	Aug. 4	Washington.
Sept. 30[1]		Louisiana.
Oct. 3[1]		Florida.
Oct. 7	Aug. 23	Hawaii.
(4)		Connecticut.

[1] Runoff date.
[2] Filing deadline is 2 weeks after State conventions close, convention closing dates unknown at time of publication.
[3] Filing deadline is 5th day following final convention vote cast for office sought by candidate.
[4] Primary, if held, is on 8th Wednesday after close of State convention.

Mr. ROBERT C. BYRD. Mr. President, this table—I will not read all of it—sets forth the dates on which congressional primaries are conducted in the various States. Beginning in March and extending through the 7th of October, the various congressional primaries are held. If the congressional primary is held on the first Tuesday in August, as is provided in the amendment which I have offered, this would mean that more than half the States—if they choose to conduct their own State primaries in accordance with the Federal primaries, and thus avoid the cost of two primaries—will move their primaries forward from the dates on which they presently are held. So instead of the primaries extending from March until October as at present, they will then extend only from the first Tuesday in August into October. Thus the campaign will be notably shortened.

I feel again that this is a worthwhile amendment in that respect, if in no other. I therefore ask the Senate to adopt my amendment.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. ROBERT C. BYRD. I am ready to yield back my time.

Mr. BELLMON. Mr. President, I wanted to ask a question. I believe I understood the Senator correctly. This amendment will not cause States that at present have primaries later than the second Tuesday in August to advance the time of those primaries, will it? Our primaries come at the last part of August.

Mr. ROBERT C. BYRD. The Senator is correct.

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

Mr. ROBERT C. BYRD. I yield.

Mr. ROTH. I wish to congratulate the distinguished majority whip for proposing legislation that I think is extremely desirable. I have long supported the concept of a shorter campaign as one of our important reforms.

The amendment proposed by the Senator from West Virginia would cause some problems in at least one State and probably in a number of States. As I understand the Senator's amendment, it would require Federal elections to be held on the first Tuesday in November, whereas a number of States, including my State of Delaware, have a constitutional requirement that State elections be held the first Tuesday after the first Monday.

I am confident that the majority whip would agree with me that no one wants to require any State to have two elections. I think we have a serious problem because to amend the constitution in my State would require the amendment to be adopted by two succeeding legislatures. For that reason I wonder if the Senator from West Virginia would be willing to accept an amendment that the election be the first Tuesday after the first Monday.

Mr. ROBERT C. BYRD. I do not see that the Senator's objection, while it does have merit, is one which is great enough to necessitate altering the amendment which I have offered.

My own State probably would have to alter its constitution. For the reason that many States may have to alter their constitutions, both with respect to general elections and primaries, the bill provides that it will not be effective until 1976, so as to give the States ample time in which to take corrective action.

Mr. ROTH. I wish to ask the Senator if a study has been made of all the States to determine whether or not this would require special legislative sessions in any State.

Mr. ROBERT C. BYRD. I have a memorandum which indicates those States that would have to change their constitutions. I think the number is 24.

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

Mr. ROBERT C. BYRD. I yield.

Mr. COOK. I would like to add to this discussion. As we know, the bill goes into effect January 1, 1976. However, the State of Delaware must have two sessions of the legislature. I understand they meet every 2 years.

Mr. ROTH. Every 2 years.

Mr. COOK. Actually this date could be established on or before November 1976. Although as a Federal statute it goes into effect January 1, 1976, certainly the Senator's State legislature, as required in my State, would meet in 1974 and again in 1976. We meet early in the year, in January. Therefore, this

change could be made to conform with the Federal statute before November.

The effective date of this statute is as a Federal statute, but actually the actions of the State must conform to this particular date by the November election.

Therefore, it seems to me this could be accomplished in the State of Delaware, as it certainly could be accomplished in a number of other States in the Union that face this problem.

When one looks at the date this takes effect January 1, 1976, as a Federal statute, the actions of the State of Delaware could conform to the Federal statute prior to the November election.

Mr. ROTH. Mr. President, if I may answer the statement made by the Senator from Kentucky, the thing I find hard to reconcile is the matter of why we should put all the States to this unnecessary work. I support what the Senator is trying to accomplish, but it seems to me that we are going to require many State legislatures to have special sessions.

Mr. COOK. The Senator makes an interesting point, and for the benefit of the Senator from West Virginia there are a number of States that have the same proceeding as the State of Delaware, and that is that a post-constitutional amendment must be brought up and voted on in one legislative session and then brought up and voted on in a second legislative session and then submitted on the ballot for approval by a majority of the people of the State. In some States it is more than a majority, two-thirds or whatever the case may be.

I would say to the Senator from West Virginia that this does pose problems in some States unless they call a special session in that once having been approved by the second legislative session it could not go on the ballot until November. So we have this problem, and I think this problem should be clearly understood in the RECORD, that if constitutional amendments are submitted, which many States do, to the electorate for approval, the States face a very serious problem.

I am quite sure that the significance of that would be that a State would then have to have a Federal election on the first Tuesday and would then have to have their own State elections for State offices the following week if, in fact, Tuesday were the 1st of November. They would then have a Federal election required by Federal statute because I think the significance of the Federal statute would obviate the requirement, but it would not obviate the constitutional requirement that State elections be held on the first Tuesday after the first Monday. So a State might find itself in a situation, and we should understand this, where a State conceivably in 1976 could have a Federal election on Tuesday, November 1, and have State elections on Tuesday, November 8, which would be the first Tuesday after the first Monday.

Mr. ROTH. Mr. President, I wish to reiterate and reemphasize what the Senator from Kentucky said. It seems to me not to make good sense to put any State in this peculiar position when I do not think there is that difference between the first Tuesday and the first Tuesday after the first Monday. I wish to inquire as to the parliamentary situation. I intend to offer an amendment. My parliamentary question is: Do I have to offer an amendment to the amendment now?

Mr. ROBERT C. BYRD. Mr. President, if the Senator would allow me, if we can proceed to adopt my amendment, then if the Senator wishes to offer an amendment he is perfectly free to do so. But my amendment has not yet been acted on and we are now operating on time under my amendment.

Would the Senator withhold?

Mr. ROTH. I will be happy to do so. I was not here at the beginning.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. I yield back my time.

Mr. ROBERT C. BYRD. I yield back my time.

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

The amendment was agreed to.

Mr. BELLMON. Mr. President, I call up an amendment I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with; and, that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 5, between lines 18 and 19, insert the following new section:

SEC. 5. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 614. Early disclosure of Federal election results in Presidential election years

"Whoever makes public any information with respect to the number of votes cast for any candidate for election to Federal office (or to the office of Presidential and Vice-Presidential elector) in the general election held for the appointment of Presidential electors and the election of other Federal officers, prior to midnight, eastern standard time, on the first Tuesday in November on which such election is held shall be fined not more than $5,000, imprisoned for not more than one year, or both."

(b) Section 591 of title 18, United States Code, is amended by striking out "and 611" and inserting in lieu thereof "611 and 614".

(c) The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"§ 614. Early disclosure of Federal election results in Presidential election years."

On page 5, line 19, strike "Sec. 5." and insert in lieu thereof "Sec. 6.".

Mr. BELLMON. Mr. President, I ask unanimous consent that Charles Waters of my staff be permitted to remain on the floor during the votes on S. 343.

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

Mr. BELLMON. Mr. President, the purpose of my amendment is to make it unlawful for election officials to publicly disclose the election returns for President, Vice President, and Members of Congress prior to midnight, eastern time, during Presidential election years. It would rectify an election abuse which occurs every Presidential election year, the publicizing of Presidential and congressional election results before the polls close in our Western States. Because of the differences in time zones and voting hours in various parts of the country, the polls in east coast States close far earlier than do those in the west coast. This variance in publicizing election returns works a detriment to the free election process, because of the band wagon influence which comes from broadcasting and prediction of congressional and Presidential election results in Western States long before the polls have closed.

Many citizens are concerned because of the likelihood that the present practice of broadcasting returns influences the way many votes are cast, and discourages others from voting, because of the belief that the outcome of the election has already been decided.

In fact, in my State of Kentucky, we have State law against revealing election results in any particular precinct until the polls are closed. It seems to me to be entirely inconsistent that we do not have a similar law for the rest of the country.

Few would contend that the publicizing of election results while citizens are voting has anything but a negative impact.

Let us consider for a moment the likely result of this practice: A western voter who tends to cast his vote late in the day, may be discouraged from doing so if he learns that the candidate of his choice has already either apparently won or lost the election on the basis of either the actual count or projections based on eastern returns. The question may be raised: "What would be your reaction as a western voter if you learned that the Eastern States had given an apparent majority of the electoral votes to a certain candidate? Would you continue on your way to vote or would you think that your vote had become meaningless and insignificant?" It is time that Congress eliminated even the more possibility of such questions being raised. The release of Federal election returns during Presidential elections before all polls have closed and the making of election predictions by the major networks based upon a sampling of a few returns is not conducive to maintaining a climate which best insures fair elections and maximum participation. It is in the interest of this Nation that the greatest number of citizens possible exercise their right to vote and that this fundamental right be carried out independent and unhampered by any prior knowledge of the significance their vote will play in the ultimate outcome of the election.

It is time for the Congress to go on record to eliminate this practice. Senator ROBERT C. BYRD's proposal, S. 343, provides Congress with the proper vehicle to finally resolve this longstanding abuse.

My amendment, if enacted, would accomplish the following:

First, it would make it a Federal offense for any State or local election official to publicly disclose any information in regard to the number of votes cast for President, Vice President, or Members of Congress in any Presidential election year before the hour of midnight eastern time.

Second, violation of this prohibition could result in a fine of not more than $5,000 and imprisonment for not more than 1 year or both.

Third, State law would continue to govern the hours of voting as distinguished from the time for public disclosure of results as established by this amendment.

Let us ask the question: If enacted, how would this amendment work? What would be its practical application?

It is my understanding that at the present time no Western State holds its polls open later than 9 p.m. local time.

I ask unanimous consent that a table showing the voting hours of the 50 States, as well as the hour of public disclosure under the terms of my amendment be inserted in the RECORD at this point.

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

STATE STATUTES PRESCRIBING HOURS AT WHICH POLLS OPEN AND CLOSE

United States	Hour opened	Hour closed	Local time of disclosure under my amendment
Alabama	8 a.m.	6 p.m.[1]	11 p.m.
Alaska	8 a.m.	8 p.m.	7 p.m.* 8 p.m.*
Arizona	6 a.m.	7 p.m.	10 p.m.
Arkansas	8 a.m.	7:30 p.m.	11 p.m.
California	7 a.m.	8 p.m.	9 p.m.
Colorado	7 a.m.	7 p.m.	10 p.m.
Connecticut	6 a.m.[2]	8 p.m.	12 p.m.
Delaware	7 a.m.	8 p.m.	12 p.m.
District of Columbia	8 a.m.	8 p.m.	12 p.m.
Florida	7 a.m.	7 p.m.	12 p.m.
Georgia	7 a.m.	7 p.m.	12 p.m.
Hawaii	7 a.m.	6 p.m.	7 p.m.
Idaho	8 a.m.	8 p.m.	9 and 10 p.m.
Illinois	6 a.m.	6 p.m.	11 p.m.
Indiana	6 a.m.	6 p.m.	11 and 12 p.m.
Iowa	7 a.m.[3]	8 p.m.	11 p.m.
Kansas	7 a.m.	7 p.m.	11 p.m.
Kentucky	6 a.m.	6 p.m.	11 and 12 p.m.
Louisiana	6 a.m.	7 p.m.	11 p.m.
Maine	6 a.m.[4]	8 p.m.	12 p.m.
Maryland	7 a.m.	8 p.m.	12 p.m.
Massachusetts	(5)		12 p.m.
Michigan	7 a.m.	8 p.m.	11 and 12 p.m.
Minnesota	7 a.m.	8 p.m.	11 p.m.
Mississippi	7 a.m.	6 p.m.	11 p.m.
Missouri	6 a.m.	7 p.m.	11 p.m.
Montana	8 a.m.	8 p.m.	10 p.m.
Nebraska	8 a.m.	8 p.m.	10 and 11 p.m.
Nevada	7 a.m.[6]	7 p.m.	9 p.m.
New Hampshire	10 a.m.[7]	6 p.m.	12 p.m.
New Jersey	7 a.m.	8 p.m.	12 p.m.
New Mexico	8 a.m.	7 p.m.	10 p.m.
New York	6 a.m.[8]	9 p.m.	12 p.m.
North Carolina	6:30 a.m.	6:30 p.m.[9]	12 p.m.
North Dakota	9 a.m.	7 p.m.	11 p.m.
Ohio	6:30 a.m.	6:30 a.m.	12 p.m.
Oklahoma	7 a.m.[10]	7 p.m.	11 p.m.
Oregon	8 a.m.	8 p.m.	9 p.m.
Pennsylvania	7 a.m.	8 p.m.	12 p.m.
Rhode Island	[11]	9 p.m.	12 p.m.
South Carolina	8 a.m.	7 p.m.	12 p.m.
South Dakota	8 a.m.	7 p.m.	10 and 11 p.m.
Tennessee	9 a.m.[12]	4 p.m.	11 and 12 p.m.
Texas	7 a.m.[13]	7 p.m.	11 p.m.
Utah	7 a.m.	8 p.m.	9 and 10 p.m.
Vermont	[14]		12 p.m.
Virginia	6 a.m.	7 a.m.	12 p.m.
Washington	7 a.m.	8 p.m.	9 p.m.
West Virginia	6:30 a.m.	7:30 p.m.	12 p.m.
Wisconsin	[15]	8 p.m.	11 p.m.
Wyoming	9 a.m.	7 p.m.	10 p.m.

[1] Alabama—In counties of over 400,000 population using voting machines, polls close at 7 p.m.

[2] Connecticut—In primaries, polls open at 12 noon § 9–438.

[3] Iowa—In cities where registration not required, polls open at 8:00 a.m.

[4] Maine—Where voting machines used exclusively, polls open at 10 a.m. and close at 9 p.m.

[5] Massachusetts—Polls must be open at least 10 consecutive hours, and must close not later than 8 p.m.

[6] Nevada—In counties of less than 25,000 population, polls open at 8 a.m. and close at 6 p.m.

[7] New Hampshire—Hours vary according to size of town. In primaries, polls must be open 4 hours, opening not earlier than 6 a.m. and closing not later than 8 p.m.

[8] New York—For special elections, polls open at 6 a.m. and close at 7 p.m. In primaries, everywhere except New York City, polls open at 12 noon and close at 9 p.m. In New York City Polls, open at 3 p.m. and close at 10 p.m.

[9] North Carolina—Where voting machines are used, polls close at 7:30 p.m.

[10] Oklahoma—Voters may file petition to have polls open at 6 a.m.

[11] Rhode Island—Hour polls open varies from 7 a.m. to 12 noon.

[12] Tennessee—County commissioners of election may prescribe different hours, at least 15 days before election, but in no event may polls be open fewer than 7 hours between 8 a.m. and 9 p.m.

[13] Texas—Election commissioners may vary hour for opening polls. In counties of less than 100,000 population, polls may open at 8 a.m. In counties of greater than 1,000,000 population, polls may open at 6 a.m.

[14] Vermont—Hours prescribed by legislative branch in each municipality, but polls must open not earlier than 6 a.m. and close not later than 7 p.m.

[15] Wisconsin—In cities of 1st, 2d, and 3d class, polls open at 7 a.m. In cities of 4th class, and villages and towns, polls open at 9 a.m. but governing body of such municipalities may prescribe that polls open not earlier than 7 a.m.

* 50 percent of population approximate.

Mr. BELLMON. Mr. President, the net effect of my amendment will be to prevent the nationwide publicizing of election results or predictions based on actual returns tabulated in eastern States until after 9 p.m., Pacific coast time, or 1 hour after the polls have closed in California. Because polls in Hawaii close at 6 p.m. local time those pollls would have been closed 1 hour. Delayed broadcasting in Alaska would avoid serious problems in Alaska where one-half the voters would still have 1 hour to vote. This amendment represent a simple, direct approach to the correction of an election abuse whose time for solution is long overdue.

Other proposals to solve this problem have been introduced. One type requires that all polls in the United States close simultaneously. Another would directly regulate the broadcast of election results until all polls have closed. First amendment constitutional objections have been raised to this suggestion. Although the proposal to close all polls simultaneously appears to be constitutional, it presents practical problems in view of the span of time it would create between the opening and closing of the various polls throughout the Nation. To provide for simultaneous poll closing as proposed by the Dominick amendment would result in some States having more favorable voting hours than others. There is also the question as to whether or not Federal laws should control local and State voting times.

It seems to me that a much more practical approach would be to regulate the hour of public disclosure rather than the hours of voting.

My amendment would eliminate the objections of constitutionality and unfavorable voting hours by directly regulating the conduct of election officials and establishing the time for disclosure of election results in Presidential years to be midnight, eastern standard time.

Enactment of this proposal could easily result in more accurate reporting of returns simply because the polls closing early throughout the country will have a few hours more to prepare their returns. This proposal represents not a suppression of news, but a regulation of Presidential elections providing for proper returns and the proper release of information concerning these elections.

Quite clearly, it is not only in the national interest that Congress act now, but Congress has the constitutional authority and responsibility to so act. Article II, section 1 of the Constitution gives Congress the power to determine the time of choosing the electors for President and Vice President. Article I, section 4 empowers Congress to regulate the time, place, and manner for holding elections for Senators and Representatives. The Supreme Court has indicated that this provision may also be applicable to Presidential elections.

Although election officials are appointed by the State, they also serve a Federal function when sitting in Federal elections, and are thus properly subject to Federal regulation. The Supreme Court so held in *Ex Parte Siebold,* 100 U.S. 371 (1879). In *Burls and Cannon* v. *United States,* 290 U.S. 534 (1934) the U.S. Supreme Court in discussing the scope of authority granted to Congress in article II, section 1 held that the powers over Presidential elections are not delegated exclusively to the States, but that Congress also has the authority and responsibility in this area and that authority is not limited merely to determining the "time of choosing the electors, and the day on which they shall get their votes."

Thus, there appears to be ample constitutional authority to support the proposal that a Federal law be enacted as I have proposed which would prohibit election authorities from releasing Federal election results until a time fixed by Federal law. Such a law I believe to be not only constitutional but practical as well.

I urge favorable action by the Senate.

I urge the approval of the amendment.

Mr. COOK. Mr. President, I must say I find serious problems in my own mind with the first amendment. The first amendment reads:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press . . .

Let us look at this. What we are saying, in effect—and I am only speaking for my own State of Kentucky, and I say this in all fairness to the Senator from Oklahoma—is that when the precinct worker is at the precinct when the polls close at 6 o'clock, he then opens up the back of the machine to phone in the results to the respective officials to whom he is compelled to do so.

I think we have to understand one thing, and one thing clearly. It is the ballot of the individual that is secret, not the numbers on the back of the machines. The sanctity of the ballot is the sanctity of the vote that the individual cast, not the sanctity of the numbers on the back of the machine. So if there is a reporter at the precinct who asks, "What is the result? I am going to phone it in." Do we say, "I am sorry; we cannot give

them?" Does that become part of the proposal of the Senator from Oklahoma? Does the precinct captain or the clerk become automatically an agent of the county court clerk in the respective counties in the State of Kentucky that are responsible for the sanctity of the election machinery? What the Senator is really saying——

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

Mr. COOK. I yield.

Mr. BELLMON. Let us say that a reporter comes now to the election officials in the State of Oklahoma or the State of Kentucky at 12 o'clock noon and asks how the election is going. Our law—and I am sure the Kentucky law—prohibits the election official from disclosing the results.

Mr. COOK. He cannot open up the machine until after 6 o'clock.

Mr. BELLMON. But in many precincts in our State they have a written ballot; there are no machines, and they count the ballots all day long. Our law prevents those election officials from revealing how the election is going.

The purpose of this amendment is to make certain that in a national election there will also not be progress reports revealed from time to time until the results are disclosed throughout the whole country.

Mr. COOK. Mr. President, we cannot make any progress report in our State. We have automatic machines in every precinct in the Commonwealth of Kentucky.

Mr. BELLMON. The Senator is agreeing with my theory that we should not have those kinds of reports made nationwide until the polls are closed nationwide.

Mr. COOK. I am not sure that I would object if the Senator said the results in the Presidential and Vice Presidential elections. I do not see why we should have a Member of Congress from New York, Kentucky, or West Virginia wait when his polls close after 6 o'clock. I do not see why he should have to wait until midnight before he can even start counting the ballots in his race.

Mr. BELLMON. Mr. President, let me respond to the Senator from Kentucky by saying that the purpose of including the congressional and senatorial results is to prevent the establishment of a trend. I agree that this is not as significant as preventing the disclosure of the results in the Presidential and Vice-Presidential elections.

It does seem to me that if we give an indication that one party or the other is sweeping the election, it would be harmful.

Mr. COOK. The Senator could not say that about the last election.

Mr. BELLMON. I still say that if there is an indication that someone is sweeping the election it can have an impact.

Mr. COOK. I do not think it is right to put a Senator from the State of Delaware or a Senator from the State of West Virginia, who is in the eastern time zone, in a position of having to wait 6 more hours. In most States we close the polls at 6 o'clock. So, therefore, we would have to wait 6 more hours, while a candidate in the Far West would immediately be able to start counting his ballots as soon as the polls are closed.

I know that this is a problem that is a direct result of television. We would not even be debating or arguing this matter if it were not for the tremendous machinery that the networks have set up. They hire experts to determine the trends, and they predict which candidate has won the Presidency with only 3 percent of the vote in. They are putting us in a position where we are having this colloquy right now.

I must say that it is not right for a Member of the Congress, House or Senate, to have to wait in the eastern time zone until midnight, so that the candidate does not have any indication of how the vote is going in the rest of the country until the polls are closed in the West. This is a great injustice to candidates running for public office in the East.

I would hope that the Senator, if he really wants to do this, will establish it for the Presidential and Vice-Presidential races. After all, the candidates for President and Vice President do run nationwide. Therefore, the Senator can make an equitable argument that all votes for those races should be in, because one does not start counting the votes in a State until all the votes are in in that State. Therefore, if the Senator would seriously consider limiting the amendment to the Presidential and Vice-Presidential elections, it would be far more palatable, even though I still have some serious reservations about the first amendment and freedom of the press.

It still seems to me that the sanctity of the individual to cast his ballot in secret is the important thing and not the results nationwide.

Mr. BELLMON. Mr. President, would the Senator agree with the present State laws in the States of Kentucky and Oklahoma and most other States which prohibit the counting of votes until all votes have been cast would be constitutional, and if they are, then it would seem that the proposal I am making is legal and constitutional.

Mr. COOK. Mr. President, I tell the Senator in all fairness that I am not sure. We have a law in Kentucky that says everyone inside the voting precinct is entitled to cast his ballot. In essence, that means that if 25 or 30 people are inside of the voting precinct and the hour of 6 o'clock arrives, then those 25 or 30 people are entitled to vote, even though that precinct might not close until 7 o'clock. However, the point is that the other machines that have closed at 6 o'clock are not counted until all votes have been cast.

Mr. BELLMON. But those standing in line would have a difficult time in knowing the results, because they do not have acquisition to news media of any kind.

This is not a new question. It is not at all a new proposal. In fact, in 1967, the Committee on Commerce of the U.S. Senate, under the chairmanship of the Senator from Rhode Island (Mr. PASTORE) held hearings on this subject.

On page 8 of those hearings, the committee lists its conclusions.

Let me read into the RECORD the opening paragraph. It reads:

> The committee is satisfied that the networks and broadcasters will take appropriate steps to clearly label voting projections and predictions in a manner that the public will not be mislead. The committee expects to follow closely the developments in this regard.

As time has gone on since 1967, the networks may have carefully labeled their earlier reports as suggested. However, the fact is that they have now improved and refined these reporting projections so that, based on the results in a very few precincts, they are able with some accuracy to project the results.

Mr. COOK. At least they are able to convince their listeners that they have. Sometimes they have not been able to.

Mr. BELLMON. However they may be labeled as forecasts, those listeners may be impressed with the results in the race.

Mr. COOK. Mr. President, I can see where someone who is going to the polls and listens to the results on the media might decide individually that there is no point in his going to the polls. However, for the life of me, I cannot see that that person in going to the polls will change his vote, because of the fact that he has listened to a broadcast on the radio or television.

Mr. BELLMON. Does the Senator agree with the State laws that prohibit the disclosure of voting trends during the day? It seems to me that if they are needed, we need a national law to cover national elections.

Mr. COOK. I would say that if the Senator would limit it to national elections, it would be far more palatable. However, when the Senator includes the Members of Congress, the House and the Senate, I do not think they are in that position. They are not in national elections. For their purpose they are local elections, limited to no more than a State.

I feel that they should not be compelled in the eastern half of the United States, nor should the electing public be compelled, when voting for the local officials, to wait until midnight before they can start to determine the results of that election.

Mr. BELLMON. Mr. President, let me say to the distinguished Senator from Kentucky that I have waited with great anticipation until the election has been announced in my own case. Generally those results are not conclusive enough to give the candidate any indication as to whether he is winning or losing until late in the evening. In any event, postponing those results for another hour or 2, or perhaps in the case of Kentucky for a longer time, does not seem to me to work a great hardship on the candidate. He is the only one who is personally affected.

Mr. COOK. I wish the Senator would hold it right there. That is not true at all. In my State, there are literally hundreds of people down at the armory waiting to start counting and tabulating those ballots. Does the Senator say that all of those people who have worked all day long at the polls, from 6 in the morning until 6 at night, must now come back at midnight and start compiling the re-

sults of the election in order to conform with the Senator's proposal?

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

Mr. COOK. I yield.

Mr. BELLMON. Mr. President, the Senator from Kentucky is a very eloquent speaker and a very fine campaigner. I am of the opinion that those people, who are just as anxious as the candidates are to know the results, will be there at midnight. They are just as anxious to find out the results as they would have been earlier. This will not work a hardship on the candidate and certainly not on the individual voter.

Mr. COOK. Mr. President, I must say that I will vote against the amendment. I would vote for the amendment, if in fact the Senator would limit it to the Presidential and Vice Presidential elections. I think then that it would resolve one of the great problems, and we would be on our way to what the Senator wants to accomplish.

But I think the restriction as to all Federal elections is a serious hardship and I, therefore, will oppose his amendment on that basis.

Mr. BELLMON. Mr. President, I appreciate the comments of the Senator from Kentucky, and may be in a position to accept his proposal.

Let me ask the distinguished Senator from West Virginia as to whether or not he could accept the amendment if it were limited to the Vice Presidential and Presidential election results.

Mr. ROBERT C. BYRD. No, may I say, Mr. President, I could not accept the amendment. In the first place, as the distinguished Senator from Kentucky has so very eloquently stated, I feel that this type of amendment raises a serious constitutional issue. We are saying that nothing can be said, no word can be spoken, with reference to the results of the election until a stated time after the polls are closed.

Second, I think that it raises a very practical problem. The distinguished Senator from Kentucky has also addressed himself to the difficulty of enforcing such an amendment.

Third, Mr. President, I want to say that a point of order would lie against this amendment by virtue of its not being germane to the bill. There is nothing in the bill that deals with the publication of the results of elections. It deals only with dates for elections. Consequently, the amendment would not be germane, I am confident.

I do not want to raise a point of order, but instead I think I would have to move to table the amendment. I would rather do that than raise a point of order. But I wonder if the Senator would not prefer to withdraw his amendment and offer it at the time the bill which is now being developed in the Committee on Rules and Administration, the Federal Elections Reform Act, is before the Senate.

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

Mr. ROBERT C. BYRD. I yield.

Mr. COOK. I might say to the Senator that that bill must be out of our committee—we are under an order, and I think it must be out by some time about the end of this week, as I recall.

Mr. ROBERT C. BYRD. No later than July 12.

Mr. COOK. By the 12th of July.

Mr. ROBERT C. BYRD. I believe the Senator from Kentucky would agree with me that that bill will deal with the use of broadcast media. It will have disclosure provisions in it. It will deal with receipts and expenditures by election committees. I am not too familiar with all of the contents of the bill, but that bill, it seems to me, would be a more appropriate vehicle for an amendment of this kind. I would hope that the Senator would withdraw his amendment—because I do not think it is germane to this bill and consider proposing it as an amendment to that measure, which will be coming along after the July 4 recess.

Mr. BELLMON. Mr. President, may I say that I do not agree with the Senator from West Virginia that this matter is not germane. We are dealing here with Federal elections, and the problem of when the results of national elections are made public is certainly an important aspect of the way those elections are conducted, just as the day for the election is an important aspect.

I might also say that while I realize the study has no official status, there has been a study by the Library of Congress which concludes that there appears to be authority to support yet another proposal; namely, the enactment of a Federal law which would prohibit election authorities from releasing Federal election results until a time fixed by Federal law. Such a time could be set with regard to the differences in time zones across the country. If it were made a Federal crime for election officials to release this information before the time designated, such a law could be practical and might well be held to be constitutional. Although the election officials are appointed by the State, they also serve a Federal function when acting in Federal elections, and are thus properly subject to Federal control.

Mr. President, I would like to inquire from the Senator from Kentucky as to when the proposed election reform bill, which will be coming from the Senator's committee, is likely to come to the floor for action.

Mr. COOK. I might say to the Senator that I think today will be the last day that we will spend in marking up the bill. We will then write reports, and it is due to the floor, as a result of its referral to us from the Commerce Committee, not later than the 12th of July.

I do not think it will really be that long. It then becomes a matter of the necessity to bring the bill up. I will be frank with the Senator. It is my contention as the ranking Republican member of the Rules Committee that I would like to have the bill taken up and considered before we recess in August.

Mr. BELLMON. Mr. President, in the light of the fact that it is likely that we will have a thorough review of our election procedures before the Senate at an early date, and in the light of the opposition of the author of this bill, I ask unanimous consent to withdraw the amendment at this time.

The PRESIDING OFFICER. The Senator from Oklahoma has the right to withdraw his amendment. The amendment is withdrawn.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for withdrawing the amendment. I would have been forced to move to table, with hesitation and reluctance, of course, but I would have done that in preference to raising a point of order against his amendment. I think the point of order would have been sustained.

I thank the Senator for withdrawing his amendment, and I shall certainly want to give serious consideration to his amendment when it is later offered to the bill which will be before the Senate some time after the July fourth holiday recess. Of course, I will not be the floor manager of that bill.

Mr. ALLEN. Mr. President, will the Senator yield to me, in order that I might make an inquiry as to the present status of the bill?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I would like to ask the distinguished Senator from West Virginia if this bill did not originally start out——

Mr. ROBERT C. BYRD. Mr. President, if the Senator will allow me to interrupt him, what is the time situation?

The PRESIDING OFFICER. The Senator from West Virginia has 52 minutes left on the bill.

Mr. ROBERT C. BYRD. Mr. President, as to the opposition time, even though the Senator from Kentucky is not opposed to the bill, I think he should have control of the time in opposition.

The PRESIDING OFFICER. The Senator from Kentucky has 60 minutes in opposition.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Alabama?

Mr. ROBERT C. BYRD. I yield the Senator such time as he may require.

Mr. ALLEN. I thank the distinguished Senator from West Virginia. I would like to ask the distinguished Senator if it is not correct that the bill started out originally to change only the date of the general Federal election for Federal officials from the first Tuesday after the first Monday in November to the first Tuesday in October.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. And no reference was made to the State primaries?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. Now, after having undergone a number of changes, the bill provides that no State could have a primary election for a Federal officer—Representative, Senator, or presidential elector—prior to the first Tuesday in August.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. But the date on the national elections has been changed, then, back to November, but being the first Tuesday in November.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. So that the change in the November date could only be, then, anywhere from 1 to 7 days?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. That being true, I wonder if we should put on the States the burden of changing their laws, which would require a State such as, for instance, the State of Alabama, which is under the Voting Rights Act, to get its change approved by the Attorney General, when a time frame of only 1 to 7 days is involved.

Mr. ROBERT C. BYRD. The Senator raises a pertinent question. The question has been raised earlier today by the distinguished Senator from Delaware (Mr. ROTH).

As I indicated to Mr. ROTH, setting the general election for the first Tuesday in November would provide parallel constructions with the setting of the congressional primary election date on the first Tuesday in August.

Second, it would save—every 4 or 5 years—perhaps a week. In other words, it would shorten the campaign by about a week.

Mr. ALLEN. It could be as little as 1 day.

Mr. ROBERT C. BYRD. No, that is not accurate, but, in any event, it is only a minor change. The benefits would be minor but it was felt that the good would outweigh the inconvenience. It would serve to some small degree to shorten the campaign in certain years. As I stated, I was convinced by the persuasive arguments of the Senators against conducting the general election in October. The consensus was, among the Senators who were raising such objections, and among other Senators on the Committee on Rules and Administration, that it would be better to fall back to the November election but to make it on the first Tuesday of November. It is a small change. Some of the States may have to change their constitutions, but those same States would also probably have to change their constitutions to make the State primary election day coincide with the Federal primary election day also.

Mr. ALLEN. The Senator's amendment, then, would require a change only in the general election for Federal offices and if a State did not change its own elections for State, county, and other local officials to conform to the Federal date, it is conceivable it might have, in the general election, two statewide elections just a week apart.

Mr. ROBERT C BYRD. It is conceivable, but I think that the States will be practical about the matter. I do not believe they will want to shoulder the burden of cost of two elections. It would seem to me that the States would fall into line and conduct their own State elections on the same day as provided by Federal law. I see no reason why they would do otherwise.

Mr. ALLEN. I should like to state to the distinguished Senator from West Virginia that I agree with the principle the time for conducting elections should be shortened, but I also believe that is something that should address itself to our State officials rather than to have Congress decree that the State must conduct its primaries and its political parties must conduct their party operations in such a way as to accomplish the result that they could accomplish on their own. I am wondering whether that should properly be within the province of Congress to tell the States when they must have their primaries and when they must have their election for electing Federal officials.

Mr. ROBERT C. BYRD. There is no question that it is within the province of Congress to tell the States as to when——

Mr. ALLEN. We are not talking about the propriety or the legality——

Mr. ROBERT C. BYRD. The Senator used the word "province of Congress" and I say there is no question it is within the province of Congress to tell the States when Federal elections may be held. That has been unheld by the Supreme Court in a number of instances and the Constitution would seem to be clear on its face.

Mr. ALLEN. I am talking about the wisdom of such a course. Congress has many powers.

Mr. ROBERT C. BYRD. But the Senator's question was with respect to whether it was within the province of Congress.

Mr. ALLEN. I asked whether it should be within the province of Congress.

Mr. ROBERT C. BYRD. Very well. Yes, I think it should be, in this regard.

Mr. COOK. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. COOK. Obviously, every State in the Union, as many as 24 States, have frozen into their constitutions the Federal election date because the election date was established by the Congress of the United States. It was not established by the respective States but by Congress.

Obviously, every State in the Union has felt free to establish its primary dates whenever it wanted to, and it can still do so. This bill would provide that the date shall be set for the holding of Federal elections. It has been a convenience of the respective States every 2 years and every fourth year and, therefore, every year—as in my State—it always holds its elections on the first Tuesday after the first Monday in November. But this was a Federal direction, not a direction that came from the respective States, and I think this emphasizes the point that the Senator from West Virginia is making.

Mr. ALLEN. I should like also to inquire whether there has been any great ground swell of public support among State officials for this mandatory requirement.

Mr. ROBERT C. BYRD. There has been no ground swell but there has been no opposition, either, by the same token. The hearings were publicly announced and not one word of opposition was expressed by any State official. The bill has been on the calendar for several days and not one word of opposition have I heard from any State. The Senator may have heard differently from his own State.

Mr. BELLMON. If I may interject there, will not the Senator agree that when the hearings were held, the date then was on the first Tuesday in October and now it has been changed back to the 1st of November.

Mr. ROBERT C. BYRD. The Senator is correct, but I have heard no word of opposition.

Mr. ALLEN. I should like to inquire of the distinguished Senator: The bill is aimed, I assume, not only at the State authorities but the political parties as well. The fact that the States did not choose to change their primary date to conform to the dictate of this bill, would that render them ineligible to enter a general election as a candidate?

Mr. ROBERT C. BYRD. With all due respect, and the Senator raises a pertinent question, I cannot see any reason whatsoever why the States would want to shoulder the burden of the double cost for primaries. I just cannot see it. It is inconceivable to me. My own State of West Virginia has its primary in May, and it would be inconceivable for West Virginia to continue to hold a May primary for the election of State officials and then have to conform with Federal law requiring an August primary for the selection of congressional candidates. That is inconceivable to me.

Mr. ALLEN. I probably did not make myself clear to the distinguished Senator. The question I posed was, suppose the States did not act——

Mr. ROBERT C. BYRD. I understood the question.

Mr. ALLEN (continuing). In compliance with the dictate and it kept its present primary date, would the Senator feel that that person nominated by the people of that State would not be eligible in the general elections as the parties naming them in the primary under the old date?

Mr. ROBERT C. BYRD. The Senator poses a good question for discussion in a seminar on constitutional law. But it is utterly inconceivable, I say, that this would happen. We can raise all kinds of theoretical constitutional questions here about any bill that comes before the Senate. But it is inconceivable that any State would elect to proceed with two primary elections and especially to require that the congressional candidates run in a separate State primary and thus fly in the face of a clear Federal statute which requires congressional candidates to be selected in a primary on a certain date or in a prescribed time period.

Mr. ALLEN. Many times it is not possible to get bills passed in the State legislature. The Senator is assuming that the State would come right along and comply with this dictate of Congress.

Mr. ROBERT C. BYRD. Yes. I am assuming that.

Mr. ALLEN. Suppose, then, the Attorney General refused to approve the change in primary dates as provided by the State legislatures?

Mr. ROBERT C. BYRD. I assume that would make a good court case.

Mr. ALLEN. That is what we do not want down in Alabama because we do not seem to fare too well with that kind of court case.

Mr. ROBERT C. BYRD. Well, I hope that will not happen.

Mr. ALLEN. We hope they will not be required to change their primary date except on their own initiative.

Mr. ROBERT C. BYRD. I do not think this is a convincing argument against Congress using its prerogative under the Constitution to establish order out of chaos in connection with the selecting of congressional primary election dates.

Mr. ALLEN. I assure the distinguished Senator from West Virginia that I favor the goal he is seeking to accomplish. I just disagree with the method of reaching that goal. I think it ought to be done at the State level, rather than by Congress.

Mr. ROBERT C. BYRD. Mr. President, I respect the distinguished Senator from Alabama. Even though he disagrees with me, he always disagrees in the most pleasant, cordial, and courteous manner, and I hope that my disagreement with him is in the same manner.

Mr. PEARSON. Mr. President, will the Senator yield 2 or 3 minutes?

Mr. COOK. I yield the distinguished Senator from Kansas such time as he desires.

Mr. PEARSON. Mr. President, I commend the Senator from Oklahoma for his amendment. Although it seemed expedient for him to withdraw it in the face of a challenge as to its being properly put on this bill, I think that what he really was seeking to deal with was a matter of fairness.

So I am hopeful that when the distinguished Senator from Kentucky and other members of the Committee on Rules and Administration come forward with a comprehensive bill, they will give very serious consideration to the proposal made by the Senator from Oklahoma.

I also compliment the distinguished Senator from West Virginia for bringing forth this bill to the floor. Among the many things that need to be considered, certainly the time of elections and the period of campaigns needs to be given very serious consideration. I want to support his bill today. We have many problems today.

I recall that several years ago I first introduced a bill that had to do with limitation of campaign expenditures, particularly expenditures in the electronic media. That has been passed. It is deficient in many areas, and we need to look at it again.

The proposal made by the Senator from Oklahoma is one that I think needs to be studied, along with many other considerations dealing with our elections. There is enough wisdom in the Senate in this respect. Some of our colleagues have been through the ordeal of fire. Several Members of the Senate have been candidates for the Presidency. I think one has to really experience that situation in order to have any understanding of what a Presidential campaign is like. We have the experience here to go forward with some meaningful major reforms. They are needed; they are needed now, they are long overdue.

I compliment the Senator from West Virginia and the Senator from Oklahoma, and I indicate my support for their proposals. I hope the members of the Committee on Rules and Administration will come forward with a very significant and far-reaching reform bill.

Mr. COOK. Mr. President, I associate myself with the remarks of the Senator from Kansas.

I say to the Senator from Oklahoma that I would appreciate very much if we might have the information relative to the table he submitted. If we could have that information, in our last markup session I would like to put forth to the committee the ideas of the Senator from Oklahoma; so that at least we could be aware not only there and within that framework but also when the bill comes to the floor that we would take this matter up; and conceivably we could have a good debate on it within the confines of the Rules Committee and perhaps come up with some suggestions that might be able to assist the Senator from Oklahoma when that time comes.

Mr. BELLMON. I say to the distinguished Senator from Kentucky that our office will be happy to furnish the results of the research we have done on this question, and I will see that it is delivered to him without delay.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. President, I ask unanimous consent that time on any amendment to the pending measure be limited to 10 minutes, to be equally divided between the sponsor thereof and the manager of the bill.

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

Mr. HARRY F. BYRD, JR. I ask the distinguished Senator from West Virginia this question: As I understand it, the bill as reported by the committee required primaries or nominating conventions for congressional candidates to be held between June 1 and August 1.

Mr. ROBERT C. BYRD. Between the first Tuesday in June and the first Tuesday in August.

Mr. HARRY F. BYRD, JR. But am I correct in my understanding that the amendment which the Senator from West Virginia has proposed, and which was adopted, would change that, so that the congressional primaries, under the amended proposal, would be between the first Tuesday in August and the first Tuesday in September?

Mr. ROBERT C. BYRD. No. The amendment provides that the congressional primaries not be held prior to the first Tuesday in August.

Mr. HARRY F. BYRD, JR. Not be held prior to the first Tuesday in August?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. HARRY F. BYRD, JR. Personally, I prefer the proposal that the Senator from West Virginia has made in regard to the time for congressional primaries. But the problem in Virginia is this: For many, many years, the congressional primaries were held in August, the first Tuesday after the first Monday, and there was dissatisfaction with that; so it was changed to the second Tuesday after the second Monday in July, and there was dissatisfaction with that.

Last year or the year before, it was changed, so that the congressional primaries are held on the first Tuesday after the first Monday in June.

So the legislature in Virginia, even though I disagreed with the direction in which they were going, has gone in the opposite direction from the proposal of the Senator from West Virginia. I have some hesitancy in voting here to require the legislature to reverse itself and go back to the August primary, when there was a great deal of dissatisfaction in Virginia with the August primary, just as there was with the July primary.

Mr. ROBERT C. BYRD. I appreciate the Senator's position.

Likewise, the State of West Virginia has a similar problem. It used to be, when I began running for public office, that the primaries in West Virginia were alternated. In presidential years, they were held in May, I believe; and, in the off-year elections, they were conducted in August. They are now conducted in May, in every election year. So the enactment of this bill will necessitate action by the legislature in West Virginia.

But I think that the overall goal we are seeking here outweighs the inconveniences that will be placed on various State legislatures in the effort to conform with the Federal primary law. The overall goal is, of course, to shorten the election campaigns and, hopefully, cut the costs of campaigns.

Mr. HARRY F. BYRD, JR. That is very desirable, I think.

Mr. ROBERT C. BYRD. Yes. That, in itself, would result, hopefully, in a reduction of campaign expenditures.

Finally, it is hoped that more people would turn out to vote, because under the present system they become bored and tired, resulting in fewer voters going to the polls.

For these various reasons, it is thought that Congress ought to take the bull by the horns, so to speak, and try to enact a law that would provide for a better degree of uniformity among the 50 States in the dates of their primary elections. The States would still have some flexibility under the amendment I have offered. They would be able to conduct their primary any time after the first Tuesday in August, on into October, if they wish. A few States at the present time conduct their primaries, for example, in September.

I note on the table which I already have inserted in the RECORD that in the last election 16 States conducted their primaries in September, 11 States conducted their primaries in August, and two States conducted their primaries in October.

But in the interest of better uniformity and the compressing of the campaign into a lesser period I feel the amendment would be beneficial. The bill is not precisely what I want; I would like to see the general election in October. But it makes

no difference what kind of bill or amendment is offered, some State will be inconvenienced. I hope the Senate will go along with the bill in light of these considerations.

Mr. HARRY F. BYRD, JR. I think it is very important to try to shorten the campaign. It is much too long. I wish there were some way we could handle it as they do in Great Britain. Under the British parliamentary system it could be determined very easily. Usually there is a 3-week campaign period. But I do not know of any way we can under our system get it down to such a fine point as that.

I think it is important to try to shorten the period, however. As I checked the calendar for 1976, the first of November is on a Monday so as a practical matter the present law and the proposed law both would call for the congressional and Presidential elections to be held on Tuesday, November 2, 1976. There would be no change in that.

Mr. COOK. The Senator is correct.

Mr. HARRY F. BYRD, JR. So it would not affect the Presidential campaign of that year. I like the September primary. But the Legislature of Virginia, and they have had several study commissions on it, concluded they want to go in the other direction and they have gotten back to June primaries.

I thank the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HOLLINGS. Mr. President, I wish to associate myself with the views expressed by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.). While I personally support the concept of shortening the time for electioneering and placing the primary more closely to election day, my general assembly in South Carolina feels differently. It has just voted a June primary. I do not feel I should override the general assembly by voting for this bill.

Mr. ROTH. Mr. President, I offer an amendment to change the language to provide that the elections will continue to be held on the first Tuesday after the first Monday in November. This change would be accomplished by striking on page 1, line 5, the word "first" and inserting after the word "Tuesday" the words "next after the first Monday in".

I ask that the Parliamentarian make all changes necessary in the bill, if this amendment is agreed to, to conform to the amendment.

The PRESIDING OFFICER. Does the Senator have that amendment in writing?

Mr. ROTH. It is being copied now.

Mr. President, the purpose of the amendment is very simple. It is to avoid requiring something like 24 States to amend their constitutions which now provide for State election or in some cases for all elections to be held on the first Tuesday after the first Monday in November.

The requirements of changing the constitutions of the States are indeed complex and varied among the 24, some of which would have great difficulty in accomplishing that change by 1976. I understand that in that year the proposal would have no effect, because the first day of November is a Monday.

In any event, to avoid putting the States to great expense and difficulty, I urge that we continue to have the general election held on the first Tuesday after the first Monday in November. That will simplify the procedure in the States. I really do not think it does much violence to the basic purpose of the legislation, which is to shorten the campaign period. The net effect would be that in 5 years out of 7 there would be a 7-week campaign, instead of 6.

Because of the complexities that would be involved in making the changes, I urge the adoption of my amendment.

Mr. ROBERT C. BYRD. Mr. President, I have discussed this matter with the distinguished Senator from Kentucky. We are agreed that the amendment should be accepted. Therefore, I urge the adoption of the amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

On page 1, line 5, strike the word "first" and insert "next after the first Monday in" after the word Tuesday.

Mr. ROTH. I further request, Mr. President, that the Parliamentarian may be authorized to make the necessary technical changes and corrections.

The PRESIDING OFFICER. The amenment proposed by the Senator from Delaware is not in order, since it proposes to amend language in the bill already amended. Does the Senator ask unanimous consent that his amendment be in order?

Mr. ROTH. I make such a request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The question is on agreeing to the amendment, as modified.

The amendment, as modified, is agreed to.

The amendment reads as follows:

On page 1, beginning with line 3, strike out through line 8 on page 2.

On page 2, line 9, strike out "Sec. 2. (a) If" and insert "That (a) if".

On page 3, beginning with line 6, strike out through line 15 on page 4, and insert in lieu thereof the following:

SEC. 2. Section 10(a)(3) of the District of Columbia Election Act (D.C. Code, sec. 1110 (a)(3)) is amended by striking out "the first Tuesday in May" and inserting in lieu thereof "the first Tuesday in August".

On page 4, line 16, strike out "Sec. 4." and insert "Sec. 3.".

On page 5, line 19, strike out "Sec. 5." and insert "Sec. 4.".

The PRESIDING OFFICER. Is all time yielded back on the bill?

Mr. COOK. Mr. President, I am ready to yield back the remainder of my time on the bill.

Mr. ROBERT C. BYRD. Mr. President, I am likewise ready to do so, but I understand that the distinguished Senator from Minnesota has an amendment that he wishes to offer to the bill. I received word of this roughly 30 minutes ago. I have sent word to the Senator from Minnesota to come to the Chamber. So I suggest that we not yield back the remainder of our time.

Mr. COOK. All right. If the Senator wishes, I will withhold my offer to yield back the remainder of my time.

Mr. President, I will now suggest the absence of a quorum, with the time consumed therefor to be equally divided between the Senator from West Virginia and the Senator from Kentucky.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Kentucky yield?

Mr. COOK. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the passage of the bill occur immediately upon the disposition of the vote on the Kelley nomination today.

The PRESIDING OFFICER. And that rule XII be waived?

Mr. ROBERT C. BYRD. And that rule XII be waived.

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

Mr. COOK. Mr. President, I now renew my suggestion of the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HUMPHREY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

At the end of the bill add the following:

"Section 6103(a) of title 5, United States Code is amended by inserting between—

"Veterans Day, the fourth Monday in October." and

"Thanksgiving Day, the fourth Thursday in November." the following new item:

"Election Day, the first Tuesday next after the first Monday in November in 1976, and every second year thereafter."

Mr. HUMPHREY. Mr. President, this amendment is identical to the amendment which I offered a year ago to the so-called Bicentennial bill. That amendment was adopted overwhelmingly in the Senate.

Mr. President, the time has come for us to recognize that in our system of government and politics we have placed serious obstacles in the way of full and democratic participation by all of the American people.

Since the end of the Second World War we have systematically eliminated the unconstitutional voting requirements posed by poll tax and more subtle racially motivated obstacles.

Although I am proud of my role in removing these barriers to democratic participation in American life, we must still do more in the name of true popular democracy.

Voter registration in many States still remains a complicated, bureaucratic ordeal which discourage voters from taking steps to insure their entry into the voting booth.

According to a survey conducted by the U.S. Census Bureau 51.2 million eligible Americans did not vote in last

November's general election. That is 37 percent of the voting-age population in the country denied their constitutional right to vote because of a hard-to-find registration office, a full day's work, or prejudiced registrar stand in the way.

Today I offer an amendment which would be an important step in insuring that millions of American working families are not deterred from exercising their franchise in Presidential and congressional elections.

My amendment makes election day the first Wednesday after the first Monday in November and also creates a legal holiday on that day.

I introduced similar legislation making election day a holiday on August 10 of last year as an unprinted amendment to S. 3307—the American Revolution Bicentennial Commission bill. The amendment passed in the Senate but faltered in the House when the bill was dropped in favor of a similar House originated bill.

In my home State, 52 percent of the people who participated in the Minnesota-poll of the Minneapolis Tribune favored an election holiday. And 37 percent believe a national voting holiday would increase voter participation.

Several other nations—Denmark, Italy, France, Germany, and Austria—which enjoy 85 to 95 percent voter turnout in every election have designated election day as a holiday.

A nation at work on election day is a nation that denies its people the full opportunity to participate in the election process.

The worker who must drive 50 to 100 miles to reach his job often leaves before the polls open and arrives home after they are closed.

The man or woman working an irregular shift in a shop or factory is discouraged from voting.

The worker on the assembly line sees the morning line and the evening line at the polling place going around the block. In the morning he must get to work and in the evening he is anxious to get home to his family. Some unions and businesses provide time off for their employees to vote. But this is by no means a universal practice. Many workers give up their franchise in despair.

Farm workers laboring in the fields are rarely given an opportunity to vote.

Professional people and students often use their busy lives as an excuse for not going to the polls.

The work day as an obstacle to expanding suffrage can be easily eliminated with the passage of my bill.

It is clear that by failing to declare election day a national holiday, we would be encouraging the exclusion of millions of American working families from participation in the American political process.

The right to vote should be a right unhampered by any economic considerations. Property ownership for voting was abolished in this country during the 19th century.

It is wrong to let a job block the polling booth for the 80 million Americans who work in factories, on the farms, and in the businesses of this Nation.

I believe this amendment—providing a legal election holiday every 2 years beginning in 1976—would increase voter participation for what I consider the most important office in the land: the Presidency of the United States—an open day for every voter so that the individual will have all the time in that day from the hour that the election booth opens until it closes in the evening.

It seems to me that in light of the experience other countries have had with the election holiday, this amendment has great merit.

As I noted, France has the national holiday. Germany has it. Italy has it. The Scandinavian countries have it. Denmark, in particular, has had it.

Other countries that have a national holiday on election day have found that the election holiday is conducive to a large voter turnout.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. ROBERT C. BYRD. Mr. President, this amendment or something similar to it was discussed in the committee. The objections that were raised to it were not strong objections. However, there was a feeling on the part of some that, if the first Tuesday or the first Tuesday after the first Monday, or whatever it is going to be, is also going to be a holiday, many prospective voters, instead of staying in their home precincts on election day, would likely have an extended holiday beginning with the Saturday previous to the election on Tuesday and going through until the following day on Wednesday, thus having a long weekend, and not going to vote at all.

I do not know whether that objection was made or not. I think that there is much to be said for the Senator's amendment. It seems to me that this amendment or some such amendment was adopted last year by the Senate.

Mr. HUMPHREY. It was. It was adopted by a rollcall vote overwhelmingly. I believe it was on August 10.

Mr. ROBERT C. BYRD. Mr. President, a point of order may very well be raised against the able Senator's amendment on this bill, because the bill only deals with the setting of dates for elections. I think the Senator's amendment would not be germane. That does not, however, mean that the amendment does not have merit.

I have discussed this amendment with my distinguished colleague from the other side of the aisle, and we are constrained to accept the amendment and take it to conference in view of its having been adopted by the Senate last year on a rollcall vote.

Mr. COOK. Mr. President, if the Senator will yield, I agree with the Senator from West Virginia. The Senator from Minnesota will recall that he and I had quite a colloquy on the subject a year ago.

Mr. HUMPHREY. I do.

Mr. COOK. Mr. President, I was very enthusiastic then, and I am very enthusiastic about the amendment now.

From my point of view, I would be delighted to accept the amendment.

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

Mr. HUMPHREY. I am glad to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I rise to express my support for the amendment. I have long thought that election day should be a national holiday. I have also thought that the polls should be open for 24 hours on that day.

I hope that sometimes we could have a situation in this country in which the polls would open at, say, 7 o'clock one morning and run for 24 hours and close at 7 o'clock the next morning. I say that because the American people seem to take any excuse they can find to keep from going to the polls.

If we can destroy those excuses and give them the time, then I think we can get a better turnout than the very poor turnouts we have been experiencing. The turnouts in all the national elections in my memory have been extremely poor. I doubt whether more than 60 or 70 percent of the people ever vote in a national election, which is a bare majority, and it is even conceivable that we could have an election by a minority.

I hope no one would raise the point of order that this might not be germane, in view of the unanimous consent agreement, because I think it is a very worthwhile amendment, and I compliment the Senator from Minnesota, who has come up with this suggestion. It is one we have long needed to make our election process a little better.

Mr. HUMPHREY. Mr. President, I am very grateful to the distinguished Senator from Arizona.

I understand that the Senator from West Virginia has yielded back his time. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HOLLINGS). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

AMENDMENT NO. 250

Mr. DOMINICK. Mr. President, I call up my amendment No. 250, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. DOMINICK's amendment (No. 250) is as follows:

At the end of the bill add a new section as follows:

SEC. . On every national election day, the closing time of the polling places in the several States for the election of electors for President and Vice President of the United States and the election of United States Senators and Representatives shall be as follows: 11 postmeridian standard time in the eastern time zone: 10 postmeridian standard time in the central time zone; 9 postmeridian standard time in the mountain time zone; 8 postmeridian standard time in the Pacific time zone; 7 postmeridian standard time in the Yukon time zone; 6 post meridian stand-

ard time in the Alaska-Hawaii time zone; and 5 postmeridian standard time in the Bering time zone: *Provided*, That the polling places in each of the States shall be open for at least twelve hours.

Mr. DOMINICK. Mr. President, this amendment is printed. It is on the desk of every Senator, but I think it would be helpful for the RECORD if I just explain what it is about.

Sometime ago I became quite concerned with the fact that under our electronic reporting system, which has done a very good job, we get forecasts in this country on the election results before the time for polling has closed in other areas.

This can have one of two effects, either of which, it seems to me, is bad. In the one case, it can influence a lot of people not to bother to vote, because they think the thing is already taken care of by what has occured in the East; or, on the other hand, it can stimulate a lot of people to say, "By golly, we are going out and fight for our candidate," whoever it may be.

This has gone on for quite a considerable period of time. I have prepared and offered an amendment which would provide that the polling places in every time zone will close simultaneously in terms of real time. They are required to stay open, under this amendment, for a period of 12 hours, and we can work it out in good style so that it does not create any particular problem. For example, along the eastern seaboard they would open at 11 a.m., and close at 11 p.m. This time would be 10 p.m. in the central time zone, 9 p.m. in my own time zone, the mountain time zone, 8 p.m. in the Pacific, 7 in the Yukon, and 6 in the Alaskan-Hawaiian time zone.

I have gone over this amendment with Senators from the various time zone districts, and I have not found any objection to it. Not only have I not found any objection to it, but I offered the same amendment on the American Bicentenial bill last August, and it was adopted almost unanimously by a voice vote. In fact, I think it was unanimous. There was no problem with it at all.

Therefore, I would urge that even though this may not be germane, it certainly fits in with the type of situation that the Senator from Minnesota (Mr. HUMPHREY) was talking about. It would seem to me that this is going to eliminate a great number of problems that we now have in forecasting, where 3 minutes after the polls close in Maine, someone forecasts what the victory is going to be in Hawaii. It just does not make any sense to me at all to go along on that basis.

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

Mr. DOMINICK. I yield to the Senator from Kentucky.

Mr. COOK. Mr. President, may I say to the Senator that I do not know what action the Senator from West Virginia will take. However, I would hope that the Senator might consider offering his amendment as a part of S. 372, which will be before the Senate after the 12th of July. I would be very much in favor of the amendment.

The distinction between the Senator's amendment and the proposed amendment which was withdrawn by the Senator from Oklahoma is the distinction of reality. I think there are some serious first-amendment problems with the amendment of the Senator from Oklahoma that are totally and completely resolved by the amendment of the Senator from Colorado, in that he would establish a system whereby all the polls in the United States would in fact close at the same time, and he does not impose a restriction, as the amendment of the Senator from Oklahoma would, that many of the polls would close on the Eastern Seaboard at 6 o'clock, and no tabulation could take place until midnight.

I would very much favor the amendment of the Senator from Colorado. I am just wondering what the contentions of the Senator from West Virginia are relative to its germaneness, and what he intends to do. Otherwise, I might say to the Senator, I would support his amendment. I would again say, though, that the bill that will be before us in July will be a far more all-inclusive bill, dealing with all classes of election reform, and I wonder if that would not be a far better vehicle for his amendment.

Mr. DOMINICK. Mr. President, I appreciate very much the comments made by the Senator from Kentucky. On the freedom of speech first-amendment problem, I want him to know that I went into that quite extensively, and that is why we drew the amendment the way we did, which I think obviates such problems.

On the other situation, I simply want to say that as far as I can see, this would be a perfectly logical amendment to be on this bill, absent the unanimous consent nongermane ruling. I am not a bit sure that it is nongermane. The only thing is that it deals with times as opposed to dates, and that is a pretty thin distinction, it seems to me.

In any event, it having been adopted by the Senate once, it would be my hope that the Senator from West Virginia would not raise the nongermaneness issue, and that we could go forward and have this amendment adopted.

Mr. ROBERT C. BYRD. Mr. President, I would hope that the distinguished Senator would withdraw his amendment and offer it at such time as the election reform bill is before the Senate. The Committee on Rules and Administration, under the order previously entered, is required to report that bill to the Senate promptly, and not later than July 12.

I do not think his amendment would have any problem as to germaneness with respect to that bill, and it seems to me that that bill would be a proper vehicle for such an amendment, whereas this bill, which deals only with election dates and not with times for closing the polls, it seems to me is not the proper vehicle.

Moreover, the committee has heard no testimony on this point in its public hearings; the Senator brings his amendment to the Senate without the Members having adequate notice and time in which to discuss it and consider it. I would hope that the Senator would withdraw it, and it may be that at such time as he offers it to the other bill—to which reference has been made—I could even support it. It just strikes me, moreover, on the spur of the moment, that this amendment would be very discriminatory toward the eastern time zone, the central time zone, and so on. It would seem to me that only those zones beginning with the Pacific time zone and going on through the Yukon time zone and the Alaska-Hawaii time zone would be well served by the amendment.

As I understand the amendment, it would require, for example, the polls in my State to remain open until 11 o'clock in the evening.

Mr. DOMINICK. That is correct.

Mr. ROBERT C. BYRD. I think that is discriminatory against the people in the eastern time zone.

They would be required to remain at the polls until almost midnight before closing, forcing them to count votes until the wings of the morning had carried the sun into the eastern horizon. For those who have to work the following day, such as workers who have to earn their living by working in the mines, it would mean that they would be knocked out of a day's work the next day.

So I would have to oppose the amendment at this point. It is worthy of consideration, but it should be subjected to more consideration than can be given it here on the floor today. I would therefore, hope that the Senator would withdraw his amendment. I do not say it is without merit, but I would have to oppose it if he persists in pressing it today.

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

The PRESIDING OFFICER (Mr. HASKELL). One minute remains to the Senator from Colorado.

Mr. DOMINICK. I would hope that if I take 2 more minutes, I could get 2 more minutes on the bill.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the Senator from my time on the bill.

Mr. DOMINICK. I appreciate that very much.

Mr. President, I want to say that this bill which the distinguished Senator from West Virginia has brought up goes in the right direction so far as I am concerned. It is an effort to try to cut down on the time of campaigning. I think we would all like that, the public and politicians alike. It seems to me that we spend far too much time that way.

I am not sure that this bill will accomplish the goal, but it is an effort in that direction. It also seems to me that the next bill coming up will be extremely controversial, and that it will have many amendments to it. This particular amendment is, in my opinion, noncontroversial, despite what the Senator from West Virginia has said. Therefore, I would prefer having it on the pending bill rather than having it on the next bill. There is already more heat on the one which is coming up later on in July.

The second point I want to make is that if we are going to close the polls simultaneously, which I hope we will do, I hope that we will not discriminate

against anyone. We are giving them 12 hours in every time district, and if we cut down on the early time in the morning, we will add it on at the end. I hope that the people of West Virginia and the people of New York and other States will be perfectly willing to have the time and the ability to go to the polls after the 7 o'clock usual closing time, which is the time most prevalent along the eastern seaboard now. They would not be able to go to the polls before 11 o'clock in the morning. Consequently, they would have this opportunity at the end of the day, in order to get the opportunity to vote, for those going to work in industrial plants or elsewhere. This is the purpose of adding it on that way. We cannot do it any other way because if we do, by the time we get to the Alaska and Hawaiian zones they will have to vote some time around 3 o'clock in the morning and obviously that will not set well with anyone, in Alaska, Hawaii, or anywhere else.

Consequently, this is the reason why we put it at that time schedule.

The amendment has already been adopted by the Senate once, so it would strike me there is no reason why it should not be adopted again, on this or any other bill.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute. I think, Mr. President, that this amendment will work a great hardship on many of the voters of this country, especially the working class of people.

For example, in West Virginia, many coal miners vote when the polls open at 6 o'clock in the morning, before they go on to work. If this amendment were adopted, it would mean that the polls would not open until 11 a.m., and thus the coal miners would not have the opportunity to cast their votes before they went to work. It would require that they vote after they return home from work. By requiring the polls to remain open until 11 o'clock in the evening, it would virtually preclude a great number of coal miners from voting. They obviously could not line up at the polls and vote at 9 o'clock, 10 o'clock, or 11 o'clock at night because they have to get up the next morning at 4 o'clock, 4:30, or 5 o'clock in order to go to work.

So if this amendment were adopted, while it has merit, I am afraid it would be counterproductive in that it would, instead of encouraging people to vote, create a practical prohibition against their voting.

I therefore would have to oppose the amendment and I would hope that the Senator would withdraw it.

Mr. DOMINICK. Mr. President, one comment for the RECORD. I understand that the Senator is going to oppose the amendment. My comment is that we have already made the date a national holiday so that we do not, really, have that problem any more. Since we have made it a national holiday, I would presume that that will be abided by and people will not be at work on that particular day. In any event, whether they were or were not, by extending the time at the end, after work, we have the chance for people to go ahead much more readily than they do now where the polls close at 7 o'clock. So this amendment is not designed to injure anyone. It is simply designed to try to cut back on the type of influence caused by the early broadcasting of election results.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute.

The amendment would still have an inhibiting effect on the working class of people. I do not think we want to ask the coal miners in Kentucky or in West Virginia to go to the polls at 9 o'clock, 10 o'clock, or 11 o'clock at night. They still have to rise at 4 o'clock the next morning if they are going to work in the coal mines the following day.

I recognize the purpose the Senator has in mind. I think it is a meritorious purpose, but I think it would be highly discriminatory against the States in the eastern region and regions of the country other than those in the West.

The PRESIDING OFFICER (Mr. HASKELL). The question is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK).

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ROBERT C. BYRD. Mr. President, I am ready to yield back my time on the bill if the Senator from Kentucky (Mr. COOK) will do the same.

Mr. President, I ask unanimous consent that the time which has been yielded back be reserved to the two Senators.

The PRESIDING OFFICER. Does the Senator from West Virginia mean on the bill?

Mr. ROBERT C. BYRD. Yes, and the Senator from Kentucky.

Now does the Senator from Colorado wish me to yield him some time?

Mr. DOMINICK. I would hope that the Senator would yield me at least 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Colorado as much time as he wishes. In not raising a point of order, I in no way intended to take advantage of the Senator. I was merely waiting to see whether he wanted to press his amendment.

Mr. DOMINICK. I asked the Senator earlier whether this was all right and he said that it was nongermane. I asked the Parliamentarian and he said he thought that was correct. I did not ask for a division or a roll call vote, nor did I ask for a quorum call in order to get more Senators in, or anything else.

Mr. ROBERT C. BYRD. Well, the Senator slept on his rights. He had the right to ask for a division before the Chair announced the result. He also had the right to ask for a roll call vote.

Mr. DOMINICK. I do have the right to do all those things, but my assumption was that the Senator would ask for a non-germane ruling.

Mr. ROBERT C. BYRD. I had hoped to avoid going that far.

Mr. DOMINICK. Very well, I will say to the Senator from West Virginia, if that is true, I will not make it again, but he will not get any more unanimous consent agreements.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote by which the amendment of the Senator from Colorado (Mr. DOMINICK) was rejected by negated.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. DOMINICK. Mr. President, I did not hear that request.

Mr. ROBERT C. BYRD. Mr. President, I asked unanimous consent that the vote by which the amendment was rejected be negated.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. COOK. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kentucky will state it.

Mr. COOK. Is the amendment of the distinguished Senator from Colorado now the pending business?

The PRESIDING OFFICER. The Chair has not yet ruled on the unanimous-consent request of the Senator from West Virginia.

Is there objection to the request of the Senator from West Virginia that the vote by which the amendment was rejected be negated?

The Chair hears none, it is so ordered, and the vote by which the amendment was rejected is negated.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I raise a point of order against the Dominick amendment. It is my belief that it is not germane to the pending business, and I ask for a ruling by the Chair.

The PRESIDING OFFICER. In the Chair's opinion, the amendment introduces a new subject, and that new subject is the time for the vote in various sections of the country. For that reason, the Chair rules that the amendment is not germane as required by the unanimous-consent agreement, and the point of order is well taken.

Mr. MANSFIELD. Mr. President, if I understand correctly what the distinguished Senator from Kentucky has said and what the distinguished assistant majority leader has said, looking ahead—perhaps the Chair cannot rule on this—on the basis of the legislation which will be reported by the Committee on Rules and Administration no later than July 12, under a Senate mandate, the Dominick amendment at that time would be in order because it would be a comprehensive Federal elections bill.

The PRESIDING OFFICER. In view of the fact that there has been no agreement on germaneness of the bill to which the Senator from Montana is referring, the one to come before the Senate not later than July 12, in those circumstances certainly the amendment pro-

posed by the distinguished Senator from Colorado would be appropriate.

Mr. MANSFIELD. I thank the Chair.

Mr. DOMINICK. I thank the Senator from Montana for clearing up the point.

Mr. ROBERT C. BYRD. I yield myself such time on the bill as I may require.

Mr. President, I should like to have the attention of the Senator from Colorado (Mr. DOMINICK).

Earlier today, the distinguished Senator from Colorado (Mr. DOMINICK) and I discussed his amendment. At that time, I indicated that it was my feeling that the amendment was not germane, and I stated the reason why. I did not indicate, to my recollection, that I definitely would raise the point of germaneness; I do not think I said that. I think I would rather have moved to table the amendment than to have raised the point of germaneness. That was precisely what I indicated to the distinguished Senator from Oklahoma (Mr. BELLMON) during the time his amendment was before the Senate. The point of germaneness could have been even more clearly raised against the Bellmon amendment, but I indicated that I would prefer to move to table the amendment rather than raise the point of germaneness, because there is a difficulty in getting unanimous-consent agreements here when nongermane amendments are ruled out. If there is anyone who knows how difficult that is, it ought to be I, because I do a considerable amount of work in trying to secure such agreements.

Rather than raise the point of order, I intended to move to table the amendment by the distinguished Senator from Oklahoma (Mr. BELLMON). I think I would have done that in this instance. The debate on the amendment by Mr. DOMINICK moved to a close; the time expired. I did not want to raise the point of germaneness, but I would have as a last resort. But I thought, as the Senator sat in his chair, that he indicated he would just have a voice vote. I was waiting to see what he wished to do. I suppose now that he, likewise, was waiting to see what I intended to do. So the matter went to a voice vote. The Senator, at any time before the Chair announced that result, could have asked for a division; he could have asked for a yea-and-nay vote. I later got consent that the result be negated so that the amendment was returned to its original state.

I am sorry that the Senator feels as he does. I do not think he has been dealt with unfairly. There was certainly no intention on my part to take any advantage of him from a parliamentary standpoint. I arranged for his amendment to be put back where it was ab initio, from the beginning, so that he could have a second chance.

If the Senator wants even now to have a vote on his amendment, I will even be agreeable at this point to ask for unanimous consent that the amendment still be considered as in order; but I will say that if he does that, rather than raise a point of germaneness, I will be constrained to move to table his amendment, which will give all Senators an opportunity to vote on the tabling motion.

I have taken the time of the Senate in order to state on the record what the situation was, so that there ought to be no misunderstanding, and I apologize to the Senate for taking this time to speak.

Mr. DOMINICK. Mr. President, will the Senator yield me 30 seconds?

Mr. COOK. I yield.

Mr. DOMINICK. I think the situation has been cleared up. The Senator from Montana asked for the ruling and got it, and I appreciate it; and I appreciate the courtesy of the Senator from West Virginia in allowing the vote to be negated. So let us just leave it that way.

Mr. ROBERT C. BYRD. Very well. I am happy to do that.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ROBERT C. BYRD. Mr. President, inasmuch as the vote on the Kelley nomination will occur at 12:30 today, I ask unanimous consent that I may yield such time as he may need, as in executive session, to the Senator from Massachusetts, to speak out of order.

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

Mr. ROBERT C. BYRD. Mr. President, I yield back my time on the bill, so that bill may go to third reading.

Mr. COOK. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator wish a vote on the bill at this time?

Mr. ROBERT C. BYRD. No. I ask unanimous consent that the vote on passage of the bill occur immediately after the vote on the Kelley nomination.

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

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.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on both the Kelley nomination and the pending business.

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on both the Kelley nomination as in executive session, and on the pending business.

The yeas and nays were 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. 8877) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1974, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 8877) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1974, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HASKELL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

THE PRESIDENT'S VETO OF THE URGENT SECOND SUPPLEMENTAL APPROPRIATION

Mr. MANSFIELD. Mr. President, according to press reports on Tuesday, spokesman for the White House pictured the President as "taking a careful approach to two areas of potentially sharp controversy with Congress," and that "Deputy Press Secretary Gerald L. Warren said that Nixon would consult with congressional leaders before deciding whether to sign or veto legislation that would cut off funds for U.S. military activity in or over Cambodia and Laos."

The dispatch goes on to state:

Although Nixon strongly opposed the legislation prior to its passage Tuesday, Warren said the President now wants to study the issue. The spokesman would not say whether Senator John C. Tower, of Texas, had the benefit of inside information when he told the newsmen he was "inclined to think the President will not veto the bill."

Mr. President, it is with the deepest concern and regret, despair and perhaps a degree of shock and alarm that I greet the President's announced veto of the urgent second supplemental appropriation measure. The word "urgent" is not my characterization. Its urgency was so maintained at the time this funding proposal was submitted to the Congress by the administration.

My concern and regret are founded on the fact that the moneys contained and approved in this measure are supposedly absolutely essential if this Nation is to pursue those policies and programs at home and abroad that are vital to the interests of this Nation—programs dealing with health and welfare and, yes, even national security.

My shock and alarm, however, lie in the fact that I suspect most assuredly that the veto was occasioned because of

the bombing halt provided by this proposal as it was sent to the White House.

Let me just say that the action taken in vetoing this measure if not reversed can lead only to a constitutional impasse over the issue of war and peace and over the ability of the American people to affect those issues as never before witnessed in the history of this Republic.

It is clear beyond doubt that the embargo on bombing was not just the voice of the Senate, not just the voice of the House of Representatives but the loud and clear will of the American people expressed and exercised through their duly elected representatives. To ignore it, to veto it, is most alarming.

I can only say, and I believe I speak in behalf of the great majority of the American people, in saying that this veto will not and must not inhibit this effort to shut off the use of American resources to carry on these continued actions in Cambodia and in other parts of Indochina. This particular bill may be vetoed and indeed the veto may be sustained, but there will be other laws required and they, too, must be presented for signature in the next few days. It is my judgment that they, too, will contain an expression of the will of the American people on the issue of the continued war in Cambodia and the way in which taxpayer funds are used to press that war forward with planes and bombs, with destruction and devastation.

What the Congress has attempted to do is to stop an ill-advised, illegal, unconstitutional slaughter of Cambodians by American bombing. In 5 months of this year and approximately 110 days of continuous bombings, we have dropped over 200,000 tons of bombs on Cambodia compared to 175,000 tons of bombs in the preceding 3 years.

The bombing at times has been heavier than the Christmas season—season of the Prince of Peace—against Hanoi, Haiphong and North Vietnam.

In all of Indochina, we have dropped approximately 6.6 million tons of bombs compared to 3.2 million tons of bombs in all of World War II, an increase of 3.3 million tons of bombs, let alone the casualties we have suffered, the cost entailed and the problems created here at home.

The United States does not belong in Indochina and never has, and of all the places we do not belong in, Cambodia is the most outstanding. We are supporting a corrupt dictator. We have created a client state and we are keeping it in power through bombings.

While the cost has been high for us, it has been higher for the Indochinese people. Where is this peace with honor which we have been told about time and time again? Why are we creating new American dead and new American prisoners of war in Cambodia?

A veto can precipitate an extremely dangerous economic situation. It is an ill-advised move which goes contrary to the will and the wishes of the Congress and the American people. If the veto is upheld, it would be our intention—I repeat—to attach similar Cambodian riders to every other possible piece of legislation, and we will do it, because under the Constitution only the Congress has been given the warmaking power, not the President, and Congress has spoken.

If the President does not want to stop the bombing in Cambodia but does want to stop the Government from functioning, that is the President's responsibility.

Mr. PERCY. Mr. President, I have listened with grave concern to the distinguished majority leader. I, too, was shocked to receive word of this veto. I wish to ask the majority leader for further clarification as to the statement he has made. As I understand the procedure, we will be voting on whether or not to override the President's veto.

Mr. MANSFIELD. No, the House will be.

Mr. PERCY. The House will act first.

Mr. MANSFIELD. The House will have that opportunity and it is my belief that very likely the veto would be upheld, but that does not mean the end of the Eagleton amendment by any means, because it will be offered again and again and again until the will of the people prevails.

Mr. PERCY. So it is the intention of the leadership to see that the Cambodian amendment is not in any way dropped; the will of Congress will continue, and it will be offered on every single bill that is appropriate for it to be attached to, and the President will then be faced with the decision each and every time he vetoes a bill, and the efforts will continue.

Mr. MANSFIELD. It is not the intention of the leadership, but it is the intention of the Senator from Montana. As far as I am concerned, I would hope there would not be another upcoming urgent supplemental appropriation bill.

Mr. HUMPRHEY. Mr. President, President Nixon has vetoed the second supplemental appropriations bill for fiscal 1973, H.R. 7447, on which action by Congress had been completed last night.

The President has once again rejected the expressed will of the Congress not only on a number of domestic needs, but also the expressed will of the Congress in demanding an end to the cruel and illegal bombing of Cambodia.

This apparent reflex action on the part of the President reflects a total failure to consider the profoundly serious impact of denying these funds for programs of vital importance to communities across America and to thousands upon thousands of our citizens.

The President's veto undermines an intensive effort in which I and other Senators and Congressmen have been engaged to assure the provision of summer job opportunities for several hundred thousand disadvantaged youth in areas of poverty across the Nation, at the same level as last year.

The President's veto shuts down a number of education programs serving handicapped children, by denying $13.8 million in additional funds desperately needed to keep these programs alive through September. It will be recalled that this crisis would not have arisen in the first place if the President's own administration had not committed an illegal activity in backdating contracts last year, the correction of which necessitated the withdrawal of funds appropriated for the current fiscal year.

The President's veto ignores the nutrition needs of children by rejecting $6 million appropriated for school lunch facilities.

The President's vote completely disregards the extensive damage inflicted in major areas of the country by floods over the past 2 years, by halting the appropriation of $35 million for flood restoration work under the Department of Agriculture.

The President's veto would scuttle the major accomplishments of Congress in enacting legislation to substantially improve medical care for America's veterans, by turning down an appropriation of $20 million for assistance for Health Manpower Training Institutions.

The President's veto rejects the counsel of House-Senate conferees that appropriations already enacted by Congress for major health programs be released from impoundment and obligated forthwith.

The President's veto turns a deaf ear to the urgent appeal of thousands of youth in need of financial aid to pursue a college education.

The President's veto compounds the irresponsibility of his earlier veto of the vocational rehabilitation amendments, by disapproving an appropriation of $610 million for vitally needed State programs under the existing act.

These are only some of the highlights of the extensive impact upon this Nation of the President's veto of the supplemental appropriations bill. Millions of Americans will be denied services which they desperately need. The United States continues to bomb a primitive country, Cambodia. A stubborn President refuses to cooperate with the elected representatives of the people. I strongly urge the Congress to act immediately to override this veto.

Mr. KENNEDY. Mr. President, in the long line of distressing vetoes by President Nixon over the past 4 years, today's veto of the end-the-bombing legislation will rank as his cruelest and least justifiable veto.

No action by the President more clearly demonstrates the totalitarian attitude that has come to be called the Watergate mentality—alone in the White House, out of touch with Congress, out of touch with the vast majority of the people of the Nation, the President has decreed that America shall go on killing and bombing in Indochina.

Long after our troops and prisoners have come home, long after any possible justification for the bombing has vanished, the war continues for millions of innocent men and women and children of Indochina. They ask America, "Why?" What reply can we give, except that we have a bitter and embattled President who does not understand his country?

Now, however, Congress is strong in its common new resolve to end the killing. And so, I urge the House of Representatives to muster the strength to override the veto, and thereby demonstrate to the President, in language he can understand, that America wants peace.

EXECUTIVE SESSION—NOMINATION OF CLARENCE M. KELLEY TO BE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will go into executive session and proceed to vote on the question: Will the Senate advise and consent to the nomination of Clarence M. Kelley to be Director of the Federal Bureau of Investigation?

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 Delaware (Mr. BIDEN), and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

The result was announced—yeas 96, nays 0, as follows:

[No. 237 Ex.]

YEAS—96

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

NAYS—0

NOT VOTING—4

Biden	Packwood
Clark	Stennis

So the nomination was confirmed.

Mr. HARRY F. BYRD, JR. Mr. President, I have only one request to make of the new Director of the Federal Bureau of Investigation. I want to make that request publicly on the floor of the Senate. My request is this: Please keep the FBI out of partisan politics.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Without objection, the Senate will return to the consideration of legislative business.

FEDERAL ELECTION LAW

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on the passage of S. 343.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 10 minutes on the next vote which occurs immediately.

The PRESIDING OFFICER (Mr. HASKELL). Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill, S. 343, be corrected in the various places so as to conform to the intent of the language of the Roth amendment which has been previously adopted.

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

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the title to the desk.

The PRESIDING OFFICER. The Senate will vote first on final passage of the bill.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMINICK. Mr. President, I ask the Senator from West Virginia, since we are dealing with a pretty important subject here, whether people will be able to vote for their elected representatives. I would appreciate it if the Senator would be kind enough to explain to the membership here what the bill does as amended. I ask the question only because the bill on the desks of Senators is not the bill on which, as I understand it, we will vote.

The PRESIDING OFFICER. Does the Senator from Colorado ask unanimous consent that the vote be withheld?

Mr. DOMINICK. I ask unanimous consent that the vote on the pending bill be withheld for 4 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to speak for 1 minute.

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

Mr. ROBERT C. BYRD. Mr. President, the bill makes no change in the present law with respect to the date on which the general election would be held.

As to the primary elections, the bill provides that no congressional primary shall be held prior to the first Tuesday in August.

As to the national conventions, the bill provides that no national convention will be held prior to the third Monday in August.

The PRESIDING OFFICER. The question is shall the bill pass? On this question the yeas and nays have been ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that I might propound one question to the Senator from West Virginia.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator be allowed 2 minutes in which to do so.

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

Mr. STEVENS. Mr. President, it is my understanding that there was a provision concerning the reporting of results in either primary or general elections. Is that provision in the bill at this time?

Mr. ROBERT C. BYRD. It is not. The amendment was withdrawn.

Mr. STEVENS. I thank the Senator.

Mr. BIBLE. Mr. President, will the Senator yield for a question which I think is very pertinent to this problem?

Mr. ROBERT C. BYRD. I yield.

Mr. BIBLE. If I understand correctly, this bill will not be effective until 1976. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BIBLE. It would have no effect on next year's election?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BIBLE. I thank the Senator.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Has this bill been amended to make election day a national holiday?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. GRIFFIN. And the holiday does not apply to primary elections?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. PELL. Mr. President, I strongly urge my colleagues to enact S. 343. The major provision of this bill, as introduced by the distinguished majority whip (Mr. ROBERT C. BYRD), and as amended and reported by the Committee on Rules and Administration, and as further amended on the floor of the Senate, would require that primaries or nomination conventions for choosing candidates for election to the offices of U.S. Senator, Commissioner be held no earlier than the first Tuesday in August, and no later than the first Tuesday in September. The bill would not directly affect presidential preference primaries held within the States, but would, I believe, encourage many States to hold their presidential primaries within the same period.

Mr. President, one of the most important legislative tasks facing this Congress is election law reform. We must seek to do all that we can to encourage our citizens to more fully participate in the electoral process, and seek every legislative initiative to help to assure the integrity and strength of that process.

In a very fundamental and, in my opinion, practical way, S. 343 would be an important step in this needed reform. It would attempt to reduce an overly long campaign period, and this would hopefully result in lower campaign expenditures, and increased interest on the part of the voting public. This shortening of the time period in which congressional primary elections could be

held would also provide a beneficial uniformity for a time in which we will hopefully have laws providing free radio and television time for candidates.

Mr. President, whenever the Congress considers election law reform it is faced with weighing its right and duty to legislate to assure the public of free and fair elections, against the first amendment freedoms of speech and association, which may be restricted and regulated by such legislation. In my opinion, S. 343 is excellently drafted and its major provisions, unlike some of those in other election reform bills before us, do not raise serious constitutional issues. Article I, section 4, and article II, section 1 of the Constitution clearly give Congress the right to make regulations concerning Federal elections. If they wish to have their elections for State officers on the same day as those for Federal representatives, some States may have to amend their own constitutions. Although this may, in some cases, be met with resistance, it seems to me that the benefits enumerated above far outweigh the difficulties involved.

Mr. President, in our most recent presidential election only 55 percent of eligible voters cast ballots. The exercise of the franchise is the most fundamental way in which a citizen can participate in the democratic process. If this right is not exercised by a larger percentage of our citizens, this process cannot remain truly free and strong. We, as legislators, have a duty to encourage participation in this process. This bill does this in a reasonable, and in my opinion, constitutional manner, and I strongly urge its enactment.

The PRESIDING OFFICER. Does the Senator from West Virginia yield back the remainder of his time?

Mr. ROBERT C. BYRD. I yield it back.

The PRESIDING OFFICER (Mr. HASKELL). The question is: Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

The result was announced—yeas 71, nays 25, as follows:

[No. 238 Leg.]

YEAS—71

Aiken	Case	Goldwater
Bartlett	Chiles	Gravel
Bayh	Church	Griffin
Beall	Cook	Gurney
Bellmon	Cranston	Hart
Bentsen	Dole	Hartke
Bible	Domenici	Haskell
Brock	Dominick	Hatfield
Brooke	Eagleton	Helms
Buckley	Eastland	Huddleston
Burdick	Ervin	Hughes
Byrd, Robert C.	Fong	Humphrey
Cannon	Fulbright	Inouye
Jackson	Nunn	Scott, Pa.
Javits	Pastore	Sparkman
Magnuson	Pearson	Stafford
Mansfield	Pell	Symington
Mathias	Percy	Taft
McClellan	Proxmire	Talmadge
McGee	Randolph	Thurmond
Mondale	Ribicoff	Tunney
Montoya	Roth	Weicker
Moss	Saxbe	Williams
Nelson	Schweiker	

NAYS—25

Abourezk	Hansen	McIntyre
Allen	Hathaway	Metcalf
Baker	Hollings	Muskie
Bennett	Hruska	Scott, Va.
Byrd, Harry F., Jr.	Johnston	Stevens
Cotton	Kennedy	Stevenson
Curtis	Long	Tower
Fannin	McClure	Young
	McGovern	

NOT VOTING—4

Biden	Packwood	Stennis
Clark		

So the bill (S. 343) was passed, as follows:

S. 343

An act relative to Federal primary elections and national conventions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) if, under the law of any State, the candidate of a political party for election to the Senate or to the House of Representatives is determined by a primary election or by a convention conducted by that party, the primary election or convention shall be held at any time during the period beginning on the first Tuesday in August. If a subsequent, additional primary election is necessary to determine the nominee of any political party in a State, that additional election shall be held within thirty days after the date of the first such primary election.

(b) For purposes of this section—

(1) the term "State" means each of the several States of the United States, the Commonwealth of Puerto Rico, the Territory of Guam, and the Territory of the Virgin Islands; and

(2) a candidate for election as Resident Commissioner to the United States, in the case of the Commonwealth of Puerto Rico, or as Delegate to the House of Representatives, in the case of the Territory of Guam or the Territory of the Virgin Islands, shall be considered to be a candidate for election to the House of Representatives.

SEC. 2. Section 10(a)(3) of the District of Columbia Election Act (D.C. Code, sec. 1110 (a)(3)) is amended by striking out "the first Tuesday in May" and inserting in lieu thereof "the first Tuesday in August".

SEC. 3. (a) The Congress finds that—

(1) the conventions held by national political parties for the purpose of nominating candidates for the offices of President and Vice President constitute an integral part of the process by which such officers are chosen by the people of the United States;

(2) by limiting the length of time during which the general election campaign for election to such offices occurs, the integrity of the electoral process is better secured; and

(3) in order to protect the integrity of the Presidential election process and to provide for the general welfare of the Nation, it is necessary and proper for the Congress to regulate the part of that process relating to the nomination of candidates for election to the office of President by prescribing the time during which such conventions shall be held.

(b) Any political party which nominates its candidate for election to the office of President by national nominating convention shall hold that convention beginning on the third Monday of August of the year in which the President and Vice President are elected.

(c) The district courts of the United States shall have jurisdiction, upon application made by the Attorney General, to enjoin the members of a political party from conducting a national nominating convention for the purpose of nominating the candidate of that party for election to the office of President in violation of the provisions of subsection (b).

SEC. 4. Section 6103(a) of title 5, United States Code, is amended by inserting between—

"Veterans Day, the fourth Monday in October." and

"Thanksgiving Day, the fourth Thursday in November." the following new item:

"Election Day, the first Tuesday next after the first Monday in November, in 1976, and every second year thereafter."

SEC. 5. This Act shall take effect on January 1, 1976.

Mr. ROBERT C. BYRD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended, so as to read: "A bill relative to Federal Primary elections and National Conventions."

CONTINUATION OF EXISTING TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER (Mr. HATHAWAY). The Chair now lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

H.R. 8410, to continue the existing temporary increase in the public debt limit through November 30, 1973, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. LONG. Mr. President, I ask unanimous consent, without prejudice to my rights, that I may yield 1 minute to the distinguished majority leader.

The PRESIDING OFFICER. Without objection it is so ordered, and the majority leader is recognized.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 229 and 234.

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

NONPERFORMING ARTS FUNCTIONS OF THE JOHN F. KENNEDY CENTER

The Senate proceeded to consider the bill (S. 1759) authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes which had been reported from the Committee on Public Works with an amendment on page 1, line 6, after the word "appropriated", strike out "such sums as may be necessary for carrying out this subsection" and insert "for the purpose of carrying out this subsection, not to exceed $2,400,000 for the fiscal year ending June 30, 1974, and $2,500,000 for the fiscal year

ending June 30, 1975."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of subsection (e) of section 6 of the John F. Kennedy Center Act (72 Stat. 1698), as amended, is amended to read as follows: "There are hereby authorized to be appropriated for the purpose of carrying out this subsection, not to exceed $2,400,000 for the fiscal year ending June 30, 1974, and $2,500,000 for the fiscal year ending June 30, 1975."

The amendment was agreed to.

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

JOHN WESLEY POWELL FEDERAL BUILDING

The bill (S. 1618) to name the headquarters building in the Geological Survey National Center under construction in Reston, Va., as the "John Wesley Powell Federal Building" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the headquarters building in the Department of Interior's Geological Survey National Center now under construction in Reston, Virginia, shall hereafter be known and designated as the "John Wesley Powell Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John Wesley Powell Federal Building".

CONTINUATION OF EXISTING TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate resumed the consideration of the bill (H.R. 8410) to continue the existing temporary increase in the public debt limit through November 30, 1973, and for other purposes.

Mr. LONG. Mr. President, in order that a meaningful vote may be had with regard to the four major portions of the committee amendment, I ask unanimous consent that the committee amendment be divided into these four parts:

One. Beginning on page 3, line 9, through page 5, line 14—this part has the 5.6 percent cost-of-living increase in social security benefits.

Two. Beginning on page 5, line 15, through page 18, line 3, and beginning on page 20, line 3, through page 28, line 5. This contains the increase in the supplemental security income payments, and other provisions to correct oversights in H.R. 1.

Three. Beginning on page 18, line 4, through page 20, line 2. This part provides a 6-month delay in the effective date of the HEW social services regulations.

Four. Beginning on page 28, line 6, through page 44, line 14. This includes the provisions relating to impoundment procedures and expenditure limitations.

The PRESIDING OFFICER (Mr. HATHAWAY). Is there objection to the request of the Senator from Louisiana?

Mr. GRIFFIN. Mr. President, reserving the right to object, since other Members are not on the floor, I want to make it clear that their rights are not being affected significantly by this request. I should therefore like to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. GRIFFIN. In the absence of a unanimous-consent request being made by the distinguished chairman of the committee, is it not a fact that any Senator can demand a division of the question in any event?

The PRESIDING OFFICER. A Senator has that right to demand a division on any question which is divisible, and this one is divisible.

Mr. GRIFFIN. That would be my understanding of it, so that, under the circumstances, there would be no point in objecting, even if there were an objection that could be made, so I am not going to do so.

Mr. LONG. Mr. President, this request involves a division which includes two items which are not placed in sequence in the bill, so that we would vote on them together. I make that request because these sections are related. They deal with aged persons who would be entitled to welfare benefits at the present time, or are eligible for medicaid benefits. Their rights would be protected under the committee bill. I recommend this so as to save the time of the Senate by voting on all these related sections at one time. That part of my request requires a unanimous-consent agreement to vote on these sections en bloc.

I have no objection to voting on them separately. I just think it would save time of the Senate to vote en bloc on both.

Mr. BENNETT. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. BENNETT. I was not completely clear. Does the Senator intend to have only one vote on these two matters?

Mr. LONG. I will modify my request and ask unanimous consent that the committee amendment remain subject to amendment so that any Senator who wants to separate out one part of it can do so.

Mr. BENNETT. These are two separate proposals. There may be some Members of the Senate who would like to vote one way on one and one way on another. I understood that the Senator would ask——

Mr. LONG. Senator, the part that would affect persons in medicaid was agreed to in the committee by a unanimous vote. I would think the vote would be even more impressive than a vote on the SSI portion.

Mr. BENNETT. Maybe I did not understand. The Senator is asking for a vote on the social security and then another vote on the SSI?

Mr. LONG. Yes.

Mr. BENNETT. That is the area I missed. As long as there are going to be two separate votes on those two matters, I have no objection.

Mr. LONG. I thank the distinguished Senator from Utah. I think it is desirable that there be a separate vote on these two matters, and the request would include that.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that Mr. Jeff Peterson, of the staff of the Senator from Connecticut (Mr. RIBICOFF), be privileged to remain on the floor during the consideration of and the votes on H.R. 8410.

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

Mr. BENNETT. Mr. President, the chairman had the privilege of making his opening statement last night; and since I was forced to be out of Washington, my opening statement could not come then, and I shall make it now.

This is the debt limit bill that we will now spend some several hours discussing along with some amendments that may be added to it.

It was not very long ago when the debt limit bill could be described as Congress annual exercise in flagellation of the Secretary of the Treasury for requesting Congress to provide him with funds to supplement tax receipts so that he could pay the Federal Government's bills. Now the debt limit bill has become one of Congress favorite games. It is so enjoyable that we play it with greater frequency—three times last year and at least twice this year, so far.

I thought I might describe, first, the House bill we are now considering before proceeding to the amendments we propose. As it came from the House, this bill contained three provisions: an extension of the present debt limit for 5 months; an amendment to the Treasury Department's authority to issue long-term bonds with interest rates above 4¼ percent; and authority for the Treasury to issue a check-bond type of security for income tax refunds.

The present debt limit is extended at $465 billion for 5 months through November 30 of this year. But we will have it back again and go through this exercise at least once more. At the present time, the limit consists of a permanent limit of $400 billion and a temporary additional limit of $65 billion which expires at midnight Saturday and must be renewed by that time.

The administration initially requested an increase in the total limitation to $485 billion through all of fiscal year 1974, which ends June 30, 1974. The House decided to extend the present $465 billion limit for the 5-month period. The Treasury Department would prefer the higher limit for all of the new fiscal year, but it decided that it had no major disagreement with the extension of the present limit for a short period. In fact, it has indicated that it can manage its activities under the $465 billion limit through the end of next November, although the limit will squeeze the cash balance to $4 billion at the end of August and November, according to present projections.

The second House provision the Treasury agreed to relates to the interest rate on long-term bonds. Two years ago, Con-

gress gave the Treasury Department authority to issue $10 billion of long-term bonds with interest rates above the statutory 4¼-percent limit. The Treasury has exercised this authority seven times since mid-August 1971 at coupon rates that have varied between 6⅛ and 7 percent. Presently, there are $8.4 billion of such long-term bonds outstanding.

Approximately half of that total, or $3.9 billion, is held by Government accounts and the Federal Reserve system. These holdings reduce the ability of the Treasury Department to issue such bonds to the general public, but at the same time, there are good reasons for the managers of several Government accounts to hold these Government bonds.

When enacted 2 years ago, Congress did not contemplate that the Government accounts would be covered under the limit, and the limitation on these securities is meaningless because, by law, the interest rate on these portfolios is limited to the average market yield on outstanding marketable securities.

The provision in this bill solves the problem by excluding bonds held by Government accounts from the $10 billion limitation. Government accounts may sell their holdings of these bonds to the public, which would increase the amount outstanding subject to the limitation, but a sale may not be made when it would raise the public holdings above $10 billion.

The third and final House provision is what I believe is a very ingenious device to help us combat inflation. The proposal calls for a check-bond that can be issued by the Treasury as a way of paying a tax refund on the income tax. This was developed in response to situations like those the Treasury Department faced this spring. There was substantial overwithholding in 1972 from wages and salaries which led to an increase of about $6 billion in refund payments. This generated great concern about the potential for a serious inflationary impact from the sudden spending of that large amount of money in a short period of time.

In addition, it appears that many taxpayers apparently prefer to be overwithheld because they consider it to be a desirable form of savings. The check-bond will make it possible for them to continue saving simply by not redeeming the check as soon as it is received.

In operation, the check-bond is really quite simple. In the case of calendar year taxpayers, it will be available for all individual income tax returns that are filed by April 15. All refund checks on such returns will carry an effective date of January 1, and if they are not cashed by July 1 of the same year, they will automatically become savings bonds that earn interest from January 1 at the rate now applicable for series E savings bonds.

During its deliberations on the debt limit bill, the Finance Committee also considered other subjects. There are several social security amendments and two provisions provide for an expenditure ceiling for fiscal year 1974 and a procedure to govern impoundments of budget authority by the President or other officials in the executive branch.

The committee amendments also cover 5 areas under the social security programs. In my opinion, some of these provisions have merit, but favorable action on them in this bill is inappropriate. Hearings were held with respect to only one of the amendments. I do not believe in precipitate action of this type. Instead, I believe, the Finance Committee should have taken the time to hold public hearings on these proposals, devote time to the proper markup of the proposals and then, to the extent the amendments were considered desirable, to add them to a social security bill now before the committee.

The first of the amendments provides that the automatic cost-of-living adjustment for social security benefit payments will become effective on January 1, 1974, instead of January 1, 1975, as under present law. The immediate effect of this amendment will be to bring about an increase in benefit payments of approximately 5.6 percent next January. The increase would offset the increase in the cost of living that has taken place between June 1972 and this month.

The argument for this action is that the increased cost of living has its greatest impact on the aged beneficiaries of the social security program who are least able to find other ways to offset the higher cost of living. I realize this kind of statement has wide appeal, but it fails to consider that the social security recipients received a 20-percent benefit increase last September.

When the benefit increase was presented to the Senate, it was argued that this 20 percent would take care of the potential cost-of-living increase until January 1975. It was for that reason that the effective date of the first automatic cost-of-living increase in social security was deferred until January 1975. Now, under this bill, we propose to give a double shot for cost-of-living increases in the present fiscal year—that share of the 20 percent which was provided for that purpose last September and a second shot in this bill.

Another problem with the amendment is its impact on the financing through the trust fund. Under legislation passed last year, contributions must be great enough to maintain the balance in the trust fund at a minimum level of 75 percent of the annual benefit payments. Previously it was maintained on a 100-percent basis and before that it was to be funded on an actuarially sound basis. Budget estimates show that the trust fund balance at the end of fiscal year 1974 would be close to 89 percent of that year's outlays. With this increase in benefit payments, there will be a smaller net contribution made to the trust fund balance in fiscal year 1974. As a result, the balance next June 30 will be about 82 percent of fiscal year 1974's outlays. This decline while not reducing the balance below the required ratio, takes it a very long step in that direction. One more step of that size would require that the wage base and/or the payroll tax be increased in order to preserve the trust fund balance at even this minimum level.

Up until this time the Committee on Finance has always prided itself that whenever it provided increases in the social security benefits it matched them with increased taxes to support them. But, we are now taking a step to break that tradition, and we are setting a new precedent. I am worried about that. If we do it this time, then maybe the next time we face this problem, we will be told that because the trust fund balance is above 75 percent of 1 year's benefit payments it is safe to go on drawing against future benefits for which current taxpayers are paying.

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

Mr. BENNETT. I yield.

Mr. LONG. Is the Senator aware of the fact that in 1969 there was a big actuarial surplus in the social security program, and we voted a 15-percent social security increase, and it did not require an increase in the tax rate because the financing at that time was on such a conservative basis that no tax increase was required?

Mr. BENNETT. What we did in 1972 was to say, "Well, we are going to reduce the required minimum balance in the fund from 100 to 75 percent, so that gives us a windfall, which we do not need to cover."

That was carefully planned so that we would arrive at that point sometime in the future. By doubling up the cost-of-living increases for this fiscal year, we are bringing the day closer when to maintain the 75 percent we have to have a tax increase.

Mr. LONG. The point I am making is that the increases in the past have not always been accompanied by tax increases. We have had increases where there have not been tax increases, because there were sufficient finances to cover it.

Mr. BENNETT. And we do that by reducing the trust fund reserve balance. We decided 75 percent was absolutely the rock bottom we could consider, but now we are pushing it down, not below that today, but we are hastening the day when we will.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. BENNETT. I yield.

Mr. LONG. I ask unanimous consent that the yeas and nays be ordered on the first part of the committee amendment.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BENNETT. I have no objection.

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

Mr. HARTKE. Mr. President——

Mr. BENNETT. Mr. President, I have the floor.

Mr. HARTKE. I wish to ask a question about this matter. Will the Senator yield?

Mr. BENNETT. I yield.

Mr. HARTKE. Does the Senator know what the anticipated revenue was from the social security tax for this fiscal year?

Mr. BENNETT. I do not have that figure here. Action on this bill has come so fast that I have not had a chance to prepare myself for a complete and detailed discussion of it.

Mr. HARTKE. Is the Senator aware of

the amount of the trust fund collections for fiscal year 1974?

Mr. BENNETT. I do not have those figures. They may be here.

Mr. HARTKE. The reason I ask the question is that I think, as demonstrated, one of the reasons that the budget deficit for fiscal year 1974 is anticipated to be much less than before is the fact that the trust fund account is going to be increased and have a surplus of about $16 billion. Does the Senator disagree with that?

Mr. BENNETT. There is a table here. In a moment or two I will have those figures and be able to answer the question.

Mr. RIBICOFF. Mr. President, will the Senator yield? I may be able to be helpful.

Mr. BENNETT. I am happy to yield to the Senator from Connecticut.

Mr. RIBICOFF. For 1973 the present law would have an income of $53.7 billion. In the committee bill in 1973 the figure would be $53.7 billion, the same amount. The difference comes in in 1974 where under the present law it would be $57.1 billion and the outgo in 1974 would be $59.9 billion.

This would be a one-shot outgo—$2.3 billion. It is a difference of one-tenth of 1 percent, and historically whenever there has been a difference of one-tenth of 1 percent the committee never felt it was necessary to increase social security taxes.

But also I would like to give another figure to my distinguished colleagues. Despite this amount, the assets in the trust fund will continue to rise from $44.3 billion in 1973 to $51.5 billion in 1977. So the outgo from the fund will be up over the present law in 1974 to 1976, but by 1977 the outgo under the present bill will be the same as under the present law, so in no way are we jeopardizing the safety of the fund.

Mr. HARTKE. Mr. President, the point is made very well by the Senator from Connecticut.

Mr. BENNETT. I want to be careful that I do not lose my right to the floor, because this dialog is taking place.

The PRESIDING OFFICER. Does the Senator yield to the Senator from Indiana?

Mr. BENNETT. I yield.

Mr. HARTKE. My point is that I want to ask the Senator from Utah whether, although in effect you are reducing the trust fund, the fact is, as the Senator from Connecticut demonstrated, you do not reduce the trust fund.

The trust fund is reduced only to the extent it would have accumulated more money if you do not accelerate the cost-of-living increase by 5.5 percent effective January 1 instead of the next year.

I wish to ask the Senator from Utah whether he really contends that you are going to have less money than you had anticipated was going to be there when we passed the cost of living, or is it the Senator's contention that we are going to have less money than the account takes in?

Mr. BENNETT. Let me go back. Obviously, if we increase benefits by $3 billion and the income remains on schedule, we will have less money 1 year from now than we would have now. I do not know of anything to change that.

Mr. HARTKE. But the fact is that we have accumulated $16 billion excess in the trust fund over what was anticipated in the 1974 budget. We are going to expend only $1.7 billion additional money, so in reality what happened is that we are overcharging the people who are paying into the trust fund. This has been historically and patently unfair to the wage earners to pay more than is actually expended.

It is due to two factors: One, inflation caused an increase in the amount of deductions for social security, and, second, as the Senator from Louisiana stated, is the fact that there have been far too conservative estimates on the actual revenues being generated by social security taxes.

Mr. BENNETT. The Senator probably did not hear me say that at the end of fiscal year 1974 the trust fund balance would be 89 percent of that year's outlays.

If this goes into effect, the percentage in the fund of actual outlay will be 82 percent. We are dropping 7 percentage points, when we had expected to stay level. We always come to learn that if we do not increase our income, but increase our outlays, we have less money.

Mr. HARTKE. But that is not what is happening. The American people should be told that the social security tax is producing an excess over the outlay.

Mr. BENNETT. Of course; it was scheduled to be that way, but it was expected that the benefit/payment line would cross sometime in the future. By doing this, we would make it cross earlier, and we would put more of a burden on the present situation, and it is going to make it necessary to increase the tax later.

Mr. HARTKE. We gave a 15-percent increase without increasing the tax on social security. That was done because there had been an overcharge on the employee. The same thing is true today. We are still overcharging the employees in the present generation to pay for the benefits we are giving to them. All we would do by this amendment and by the cost-of-living increase is two things. One is recognizing that the overcharge on the employees was caused by the failure of the analytical experts to come up with a realistic estimate of revenues; second, there was a failure to take into account the sharp increase in inflation, which has made for a bigger pay check but no increase in purchasing power.

Mr. BENNETT. We are talking about the same subject without agreeing on the basic premise, and I see no point in continuing it.

Mr. HARTKE. I agree that we disagree. The question is whether it is based on facts or assumptions.

Mr. BENNETT. The Senator from Utah cannot tell who is using the facts and who is using assumptions.

Mr. President, let me return to my statement.

In addition to the increase in benefit payments, the committee took steps to assure that beneficiaries would not lose their eligibility, because of the increase, for benefits under the aid to families with dependent children program and medicaid and also to assure that benefits under the supplemental security income program will increase commensurately.

The committee acted to blanket in under the supplemental security income program "essential persons," who usually are the spouses—generally under the age of 65—of recipients of assistance to the aged, blind or disabled. Thus, an aged person whose spouse is under 65 and currently is on public assistance would be guaranteed a monthly income equivalent to that of a married couple presently covered under the supplemental security income program. In addition, States would be required to supplement Federal SSI payments by the amount of the social security benefit increase to assure that entitlement payments will not be reduced. To make sure that this adjustment is carried out, Federal matching funds for the Federal medicaid program in 1974 would be denied to the States who refuse to make the supplemental payments. These two provisions I think are desirable, although I believe that they do not belong in this bill.

In another amendment, the committee acted to protect certain individuals against the loss of eligibility for medicaid when the SSI program becomes effective next January or on termination of a savings clause related to last year's 20 percent benefit increase. Those who would be threatened with loss of eligibility include "essential persons," persons in medical institutions, and blind and disabled medically needy persons. The savings clause continues the eligibility for medicaid of persons who go off assistance, because of the benefit increase. These adjustments also are meritorious, but they also are mislocated in this legislation.

The committee acted to repeal section 225 of the Social Security Act that would deny Federal participation in reimbursement for nursing homes to the extent that their costs exceeded 105 percent of the preceding year's payment levels.

The committee extended for 1 more year the basis for allocating funds appropriated for the maternal and child health programs among the States. The action continues to make available 40 percent of the funds on the basis of special project grants and delays application of the provision that would make 90 percent of the total money authorized on a formula basis.

On May 1, 1973, HEW issued regulations with respect to social service programs funded under the Social Security Act, and the regulations are scheduled to go into effect on July 1, 1973. The committee's amendment would delay the effective date of the regulations until January 1, 1974, by which time it is believed Congress will approve legislation that deals with the substantive issues associated with the social service programs.

I believe that these three amendments I have just described should be treated as all the other amendments to the social security programs that I have discussed during the past several minutes. They

should be dealt with in a social security bill. The Senate should not approve them as part of this debt limit bill.

For the information of the Senate, I have been informed that the Parliamentarian of the House has taken the position that these social security amendments are not germane under the rules of the House and that they will have to be taken to a separate vote before the conference committee can consider them as a part of this legislation. This, I think, demonstrates my point that we are dealing with meritorious programs but on the wrong vehicle.

Now, I know why we are dealing with them on this vehicle. This has a deadline. If we do not pass this bill within a week after July 1, the Secretary of the Treasury is going to have to say to those who are expecting Federal checks, "I am very sorry, but I have no money, and I cannot pay."

It always disturbs me to legislate in this atmosphere of holding the credit of the Government hostage to some program which may be desirable. It seems to me this is operating a little like the Mafia and holding a gun to the head of the President and saying, "This is something you cannot veto, so we are going to have fun and put on a lot of things which should not be here. For one reason or another, we want to get them through without taking the risk of full consideration by the Congress on all of the merits of the particular proposals and all the risks we create when we do that."

The committee amendments also deal with a spending ceiling for 1974 and impoundment procedures. The spending ceiling is set at $268.7 billion. This provision gives the President the ceiling at the level he asked for in January, but with larger social security spending than he asked for and under conditions he would prefer not to have. Earlier this year, the Senate twice passed spending limits of $268 billion. The Finance Committee added $700 million to the ceiling, because it has provided in this bill as much as $1.4 billion in additional outlays in fiscal year 1974. The higher ceiling obviously is intended to make it easier for the President to accommodate these mandatory outlays.

However, this section of the bill also instructs the President how to make his adjustments. The limitation is not to apply to the funds available for interest payments, veterans benefits and services, social insurance trust fund payments, public assistance maintenance grants and supplemental security income payments under the Social Security Act, food stamps, military retirement pay, medicaid, and judicial salaries. The remaining budget outlays, about 53 percent of the total, are to be reduced on a pro rata basis among the functional categories described in the budget document.

This returns us to the situation we faced last October, when it became obvious, at least to the Senator from Utah, that we cannot say to the President, "If you are going to make a cut anywhere, you must cut exactly the same in every part of your budget, even after you have excepted a few." A business cannot be run that way. A government cannot be run that way. It is interesting that that idea finally had to be rejected and has now come back, through this particular bill, and it must be rejected again. To find it in a bill that the President cannot veto is, I think, a little bit irresponsible.

It is fine that the Senate indicates to the President how he should adjust priorities while reducing Government spending, if the procedure it provided were feasible. However, there is an element of self-deception in the instruction to apply the reductions on an equal percentage basis among a diverse collection of spending categories. Some of them are as uncontrollable as the exceptions listed in the bill. This is true, for example, of general revenue sharing, farm price supports, various housing payments, the Postal Service, and Federal civilian employee retirement programs. Outlay estimates for these come to about $14 billion. In addition, there is about $45 billion of expected spending that is attributable to outstanding contractual and other obligations for various national defense and civilian programs. It would be just as difficult for the administration to reduce these outlays as it would be with respect to the programs already excluded from the ceiling.

The purpose of the impoundment control procedure is to enable Congress to review impoundments of budget authority made by the executive branch. The Congress, after the review, would have an opportunity to approve or disapprove of each impoundment action, in whole or in part, by a concurrent resolution. Such action would be required only if the impoundment does not conform with the Comptroller General's notion of what constitutes existing law.

Mr. President, I do not believe that we want to let the Comptroller General decide what Congress should or should not do. He is a creature of the Congress, and he should not have veto power over our action. I do not believe this legislation is desirable.

I say this especially since Congress has available and is currently considering a much more desirable alternative. I refer to the procedure for budget control that was recommended in the final report, issued on April 18, by the Joint Study Committee on Budget Control. These recommendations outline a procedure that calls for Congress to establish a budget committee in each House which would review the President's budget recommendations, consider all other recommendations presented to it in public hearing and written communication, and recommend to Congress appropriate totals for budget outlays and allocations within the totals among the major spending categories. The allocations and the action by Congress on the concurrent resolution would provide Congress with the opportunity to establish its own priorities in the budget, if its views differ from those of the President.

It seems to me that the Congress would be much better advised to devote its energies with respect to this area to the proposed budget control procedure and to refine it in such a way that it can become effective as soon as possible. Once it is established, Congress should have little difficulty in governing the level of spending and receipts and making its own statement of national spending priorities. This seems to be the most sensible place to direct congressional energies on this important subject.

At this point, I would like to observe that there are a number of impoundment proposals floating around in various legislative stages. I am a member of another committee which is involved in a conference, because the bill in conference has an impoundment proposal in it. The leaders of the House have their own impoundment proposal, and they will not allow the impoundment proposal that came to the House from the Senate be considered until they have a chance to act on their own measure.

I am surprised and think it was unwise to add another impoundment proposal to the bill. I think that the wisest legislative course that the Senate can take on this bill before us is to strip it of all the committee amendments and pass the bill in the form it came to the Senate from the House of Representatives.

As I said earlier, my information is that the Parliamentarian in the House of Representatives said that he must rule that adding social security amendments to this bill will not be germane, and that they, therefore, cannot be considered by the conference without floor action first.

I realize that there are still other amendments beyond those that the committee adopted which are going to be offered to the bill. There are perhaps 8 or 10 of them. I think they would be less germane than the ones the committee proposed, because I would expect that some of them, at least, would be outside the jurisdiction of the committee.

I have stated my position. We are up against a deadline. I think it is bad legislation to put a gun at the head of the President and say, "Here are a lot of things we want, that you don't want; but because you cannot, apparently, veto this bill, we are going to force you to take legislation that should probably be passed through the normal legislative process—be carefully weighed in hearings, be carefully studied, and then be treated in the area in which it belongs—rather than be used as a device for collecting ransom, if you please, from the country's needs, with the Secretary not being in a position to pay the country's bills after next Saturday night."

I yield the floor.

SUPPORT FOR SOCIAL SECURITY INCREASE

Mr. CHURCH. Mr. President, as chairman of the Senate Committee on Aging, I wish to register my strong support for the 5.6-percent increase in social security benefits.

First, however, I wish to commend the Senator from Louisiana (Mr. LONG) for his leadership in incorporating this urgently needed provision in H.R. 8410.

This action becomes all the more compelling in my judgment, because rising prices have severely eroded the elderly's purchasing power. Inflation has become so critical now that the elderly cannot af-

ford to wait until January 1975—the first effective date for cost-of-living adjustments under existing law.

In the last year alone, the Consumer Price Index has jumped by an alarming 5.6 percent. All age groups have felt the impact in one form or another. But older Americans have been especially hard hit because some of the steepest increases have been in categories which affect them the most.

For example, food costs at home have jumped by 14.5 percent during the past year—and most of that increase has come in recent months. This staggering raise has been especially severe for the elderly because about 27 percent of their income is spent on food, in contrast to approximately 16 percent for all Americans.

Another example would be housing and maintenance repairs which have risen by 6.9 percent in the last year. Here again, older Americans have been especially hard pressed because almost 70 percent own their homes.

During the past few months, the Senate Committee on Aging has conducted hearings on "Future Directions in Social Security" and "Barriers to Health Care for Older Americans." These hearings have also provided powerful and persuasive arguments to justify a social security increase before 1975.

For these reasons, I recently joined the Senator from Connecticut (Mr. RIBICOFF) in sponsoring S. 2025 which would move up the effective date from January 1975 to January 1974 for social security cost-of-living adjustments.

By providing a 5.6-percent increase effective in January 1974, the Senate Finance Committee has incorporated the basic thrust of our proposal. Moreover, under the Finance Committee proposal, it would also be possible for the elderly to receive another cost-of-living adjustment in January 1975. This action is also consistent with the goal of Public Law 92–336, which was to make social security benefits inflation proof for older Americans.

In terms of dollars and cents, this measure would raise average monthly benefits for:

Retired workers from $166 to $176; aged couples from $277 to $293; and elderly widows from $158 to $167.

Additionally, maximum benefits for retired workers would be boosted from $266 to $290 a month. And in the case of an elderly couple, maximum monthly benefits would be increased from $399 to $435.

Moreover, this legislation would remove an estimated 400,000 Americans from the poverty rolls, and without the necessity of resorting to welfare. Of this total, about 300,000 are projected to be age 65 or older.

SUPPLEMENTARY SECURITY INCOME PROGRAM

Mr. President, I am also pleased that the Finance Committee has included a provision to help the low-income elderly.

This measure would raise the income standards under the supplemental security income program, which will replace aid for the aged, blind, and disabled in 1974. Under the Finance Committee proposal, the monthly income standards would be raised from $130 to $140 for elderly single persons, and from $195 to $210 for aged couples.

Without these increases, the effect of the social security raise would be canceled out for many of the aged poor because their SSI payments would be reduced by the amount of the social security increase.

The Finance Committee's proposal certainly represents a step in the right direction. However, we must be mindful of this basic fact of life: Despite these proposed increases, the income standards under the SSI program will still be below the poverty thresholds.

Consequently, I wish to announce my intention to introduce legislation in the near future to eliminate poverty entirely for the elderly.

Mr. President, I urge the adoption of the Finance Committee amendments to H.R. 8410, and I am hopeful that these measures will be approved by the House.

Mr. EAGLETON. Mr. President, I want to express my support for the package of constructive and responsible amendments added to the debt ceiling bill by the Committee on Finance which are designed to protect the income of social security beneficiaries and supplementary security income recipients.

SOCIAL SECURITY COST-OF-LIVING INCREASE

As a cosponsor of the bill introduced last week by the Senator from Connecticut (Mr. RIBICOFF), I am particularly pleased that the committee has authorized a cost-of-living increase for social security beneficiaries in January 1974.

Under the law passed by Congress last year, annual cost-of-living benefit adjustments are authorized whenever the Consumer Price Index has risen by at least 3 percent during the preceding year. However, this law delays the first such increase until January 1975.

In view of recent increases in the cost of living, I do not believe we should expect social security recipients who live on fixed and, more often than not, inadequate incomes to wait until January 1975 for a benefit adjustment.

Since the beginning of this year, the Consumer Price Index has risen at an annual rate of more than 9 percent. And leading the price increases have been two items which take the largest shares of the budget of the average older person—food and shelter.

If we do not take action to amend this law, not only will the elderly have to wait until January 1975 for an increase, but that increase will not even cover the dramatic price increases that have occurred during the first half of this year.

The amendment in this bill provides for a cost-of-living increase effective January 1, 1974, to cover the increase in the Consumer Price Index between June 1972 and June 1973. It is estimated that this increase will be about 5.6 percent.

With this increase the minimum social security benefit will be raised from $84.50 to $89.30, the average benefit for a retired worker will go from $161 to $170, the average benefit for an aged couple will be increased from $277 to $293, and the average benefit for an aged widow will be raised from $158 to $167.

Social security beneficiaries deserve to have this increase next January, and I commend the committee for the action it has taken.

SUPPLEMENTARY SECURITY INCOME INCREASE

I also support the amendment contained in this bill to increase the initial assistance levels under the program of supplemental security income for the aged, blind, and disabled to become effective next January. Assistance for a single person with no other income would be increased from $130 to $140 per month. Assistance for a couple with no other income would be increased from $195 to $210.

This amendment is important for two reasons. First, an adjustment in SSI assistance levels is necessary if the majority of SSI recipients who also have social security benefits are to benefit from the cost-of-living increase next January.

Second, those SSI recipients who have no other source of income and, therefore, are among the most needy of our aged, blind, and disabled citizens also desperately need this increased income to enable them to cope with inflation.

STATE SUPPLEMENTATION

A third amendment to the bill would require all of the States to maintain the assistance levels of their current aged, blind, and disabled public assistance recipients during calendar 1974.

In my testimony before the Senate Finance Committee in February 1972, I urged that legislation establishing the SSI program include a provision "grandfathering" in all current recipients so that no person would suffer a loss of income. At that time I said:

> I believe that no aged, blind, or disabled person who now relies upon public assistance should be subjected to uncertainties and anxieties about what will happen to that assistance either at the time of the transition to the new program or at some time in the future when a state government may change its policy.

Unfortunately, in the last few months many aged, blind, and disabled persons, and others interested in their welfare, have been faced with uncertainties about what actions States would take to supplement the SSI payment.

With the enactment of the provision included in this bill, and with the recent action of the Senate and the anticipated action by the House to restore the eligibility of SSI recipients for food assistance, we will guarantee that many aged, blind, and disabled persons will receive more assistance next year and that no aged, blind, or disabled person will receive less.

In this regard, Mr. President, I can report that the State of Missouri has already taken the action required by this amendment. The legislature recently enacted legislation authorizing such supplementary payments as may be necessary to guarantee that no aged, blind, or disabled person on the public assistance rolls in December 1973 will suffer a reduction in income under SSI. In addition, the legislature has authorized special payments to those SSI recipients who may require domiciliary or practical nursing care in the future.

Missouri has taken this action without any legal requirement that it do so. Moreover, it has taken this action without the guarantee of a single penny of fiscal relief, since supplementary payments made by Missouri are not protected by the "hold harmless" provision of Public Law 92–603.

The supplementary program enacted by the Missouri Legislature has been expected to cost the State approximately the amount it is now spending for assistance to the aged, blind, and disabled. With the increase in SSI payments provided for in this bill, some of that amount will be freed to meet the additional costs to the State for medicaid which will inevitably result from the implementation of the SSI program.

The amendment approved by the committee will require all States to do what Missouri has done voluntarily, and I support that amendment.

SOCIAL SERVICES

Finally, Mr. President, I support the committee amendment which delays the effective date of the new social services regulations until January 1, 1974.

Without this amendment, several programs in Missouri, including social service centers in three St. Louis public housing projects and services for the residents of the St. Louis and Kansas City model cities areas, would be placed in jeopardy on June 30. Summer camping programs for ADC children, in which considerable funds have already been invested, would have to be canceled.

In addition to preventing serious disruption of ongoing programs, this amendment will give the Congress time to consider legislative action that may be necessary to assure that the States can use their respective shares of the $2.5 billion ceiling set by Congress last year to provide a full range of social services to those persons who can derive the most benefit from them.

Mr. HARTKE. Mr. President, over the years I have on several occasions urged the Congress to take the lead in providing well-deserved increases in social security retirement benefits. As a member of the Senate Finance Committee, I have repeatedly proposed benefit increases both in committee and on the floor of the Senate because I believe that every older American has the right to live his life in dignity.

Senior citizens need money for food and clothing and for housing and medical care. The plain fact is that social security benefits today are not adequate to meet those needs. Older people are being forced to live lives of despair and desolation because the Government program which they depended upon—social security—the Government program to which they contributed a large portion of their hard-earned wages—has not provided them with decent retirement benefits.

Mr. President, it is because of my commitment to the well-being of the Nation's older citizens that I am particularly proud of the 5.5-percent increase in social security retirement benefits which is in the bill before us today. Without this increase, senior citizens would have to wait until 1975 to get any relief from the skyrocketing rise in the cost of living.

With the proposal before the Senate today, every person eligible for social security benefits will receive a 5.5-percent increase in his monthly check beginning in January 1974. That means an additional $2¾ billion in social security benefits in 1974 alone—$2¾ billion which older Americans will have to spend on the things they need.

Just as I have pointed out in the past, this increase can be accomplished out of surpluses in the social security trust fund. We do not need to raise the tax rate paid by the current working generation in order to pay for these new benefits to retired workers.

Mr. President, this 5.5-percent increase is a meritorious boost in benefits which will help alleviate the plight faced by millions of older Americans. I do not believe that this increase in benefits will be the last voted by Congress. So long as older Americans continue to live in or near poverty, we will be obliged to raise their social security benefits to achieve economic justice for the elderly. I pledge to continue my fight for the rights of older Americans so that the day may not be distant when the dream of a life of dignity and meaning becomes a reality.

Mr. HELMS. Mr. President, I must regretfully vote against a 5.5 percent increase in social security benefits. Opposing increased social security benefits is not a popular political position to take, but I am convinced that it is the only honest position that I can take. Unfortunately, too much politics has entered into the whole question of social security benefits in the last few years.

With the adoption of the increase in benefits provided in this bill, social security benefits will have increased by 45 percent since January 1, 1970.

I recognize that senior citizens on social security and widows and other dependents receiving social security benefits in many cases need additional financial assistance, but to a large extent, their social security payments are becoming inadequate because of the erosion in the purchasing power of the dollar created by the inflation which has eaten away at our economy in recent years.

Increasing social security payments does not give the recipient of social security benefits more purchasing power; it merely gives him more money with less value. This increase in social security benefits will result in approximately $1.3 billion in additional funds being spent for social security benefits next year. This additional money will surely fuel the fires of inflationary pressures in our economy, rather than reduce them.

Turning to the other side of the social security coin, there are far more people paying into the social security trust fund than there are beneficiaries being paid from the fund. Social security was, in the beginning, intended to be a sound insurance program with the Government administering it as trustee. There is a duty to provide equitable treatment, not only for those now collecting benefits under social security, but also for those who stand as future beneficiaries of the program. I believe the program was intended to accumulate a reserve equal to the amount necessary for the payment of 1 year's benefits. Following the 20-percent increase in social security benefits enacted by Congress last year, that reserve has dwindled to roughly an 8-month reserve. This increase in benefits will increase the difficulty now being faced in trying to provide a full year's reserves. It is important that reserves be maintained at their full level because revenues received by the fund are vulnerable to any sharp fluctuation in national employment. If this country faced a recession with widespread unemployment, those entitled to benefits under social security would not be reduced, but the amount of social security tax paid into the fund would be severely reduced, thereby threatening the financial soundness of the entire social security system.

Finally, Mr. President, I am not as willing as some of my colleagues apparently are to believe that we can continually increase benefits without having either to increase the rate of social security tax or increase the base on which that tax is assessed. In either case, such an increase would be a most unfair imposition upon the working men and women of America who are paying to support this social security program.

Since social security tax is really a regressive tax imposed on gross taxable income and not on net income, I cannot justify a vote to increase benefits at this time which will surely sow the seeds for yet another increase in the social security withholding tax. I believe that the most forthright and productive thing that I can do for both present and future recipients of social security is to vote here in the Senate to cut back on Federal spending which will reverse the inflationary pressures operating today in our economy.

Mr. LONG. Mr. President, the Watergate hearings will be going on during the remainder of the day, and Senators will be listening to them during this debate. Senators will realize that it is not necessary to debate this amendment at length, since I do not think it will change many votes. Therefore, I suggest that we proceed to vote on the first part of the Committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the first part of the committee amendment, on page 3, line 9, through page 5, line 14. 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 Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), the Senator from Minnesota (Mr. HUMPHREY) are 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 Iowa (Mr. CLARK), the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the

Senator from Arizona (Mr. GOLDWATER) is detained on official business.

The Senator from Tennessee (Mr. BROCK) and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The result was announced—yeas 86, nays 7, as follows:

[No. 239 Leg.]

YEAS—86

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

NAYS—7

Bennett	Hansen	Tower
Curtis	Helms	
Fannin	Thurmond	

NOT VOTING—7

Biden	Goldwater	Stennis
Brock	Humphrey	
Clark	Packwood	

So the first part of the committee amendment, consisting of page 3, line 9, through page 5, line 14, was agreed to.

Mr. MANSFIELD. Mr. President, I am about to propound a unanimous-consent request.

Mr. GRIFFIN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Montana will suspend until order is restored.

The Senator may proceed.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be 2 hours on the bill, an hour on each amendment, 30 minutes on amendments to amendments, with the times to be equally divided so far as amendments are concerned between the sponsor and the manager of the bill; with the 2 hours on the bill to be under the control of the manager of the bill and the minority leader or whomever he may designate. That is in this unanimous-consent request, if it is agreed to, the distinguished Senator from New York (Mr. JAVITS) be allowed 40 minutes and the manager of the bill 20 minutes, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) to be allowed 1 hour.

Mr. JAVITS. Mr. President, reserving the right to object, I wish to preserve my amendment free of the germaneness rule.

Mr. MANSFIELD. That is understood. I am not asking for it in the usual form.

Mr. CHURCH. Reserving the right to object, I have two amendments I intend to offer to the bill, and I would like to ask whether germaneness is a part——

Mr. LONG. There is no germaneness requirement.

Mr. CHURCH. There is no germaneness. That is not the basis for restricting the amendments.

Mr. JAVITS. I do not quite get that. The distinguished majority leader said that he was asking for it in the usual form.

Mr. MANSFIELD. No. Not in the usual form.

Mr. JAVITS. I beg the Senator's pardon. I understand now.

Mr. TOWER. Mr. President, reserving the right to object, could part of the agreement be that the rule of germaneness apply to any amendments that are filed subsequent to this time, so that those now at the desk would not be caught by the rule but would bear upon any future nongermane amendments being filed?

Mr. HARRY F. BYRD, JR. Mr. President, I would object to that.

Mr. GRIFFIN. Mr. President, reserving the right to object, then would it be possible to have some notice go out that any nongermane amendments that a Senator would intend to offer should be filed at the desk within the next hour, as I would personally, and I think most Senators would, like to have an agreement of some kind in connection with this bill, because it would be useful, but it would also be important that if we are going to agree to vote on an hour certain, we have some idea of what we are agreeing to vote on.

Mr. LONG. Mr. President, I would hope we would not have a vote on any tax amendments to the bill, but there are some printed at the desk, so we will have to face them if they are called up. I hope that we will not accept any tax amendments. I will oppose any such tax amendments as are proposed to be added to the bill. But we have to face the fact that it is the right of any Senator to offer any tax amendment to the bill. So, as much as I regret to say it to the Senator, Senators can offer anything to the bill except a constitutional amendment. That is in the rules of the Senate. We cannot deny Senators the right to offer amendments to the bill and to entertain a vote on them. But if there is something a Senator does not want to vote on, I believe the Senator from Michigan knows that he can continue to offer amendments to amendments to amendments, ad infinitum.

Mr. MANSFIELD. I believe this is a reasonable request, the 1 hour.

Mr. GRIFFIN. The reason we are going to have a unanimous-consent agreement here, obviously, is that if anyone objects, we cannot have it and——

Mr. MANSFIELD. I think this is a reasonable suggestion—within 1 hour.

Mr. LONG. If someone wants to file a nongermane amendment he would have to file it within 1 hour; is that not correct?

Mr. MANSFIELD. That is right.

Mr. HARTKE. Mr. President, reserving the right to object, could we have the unanimous-consent request restated?

Mr. MANSFIELD. All right.

The PRESIDING OFFICER (Mr. DOMENICI). Will the Senator suspend? Could we have order in the Senate? The Senate will be in order.

The Senator from Montana may proceed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the pending business there be a 2-hour limitation on the bill, to be under the control of the distinguished manager of the bill, the Senator from Louisiana (Mr. LONG), and the distinguished minority leader or whomever he may designate; that on all amendments there be a time limitation of 1 hour, to be equally divided between the manager of the bill and the sponsor of the amendment; that on all amendments there be one-half hour, with the same division of the time to occur; that there be 1 hour allocated to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.); that amendments up to 1 hour from now which are not germane will be acceptable within the realm of this——

Mr. BENNETT. Do not forget Senator JAVITS.

Mr. MANSFIELD. Yes, and that the amendment offered by the distinguished Senator from New York (Mr. JAVITS), on that 1 hour limitation, he have 40 minutes and the manager of the bill 20 minutes.

Mr. HARTKE. Mr. President, may I ask, regarding the nongermane amendments, they must be filed within 1 hour and be at the desk by that time—5 minutes after 3?

Mr. MANSFIELD. If this unanimous-consent request is agreed to, yes, at the time of its acceptance.

Mr. CASE. Mr. President, what would be the effect of this on amendments to amendments insofar as germaneness goes?

Mr. MANSFIELD. It would be my belief that it would have to be germane to the amendment pending.

Mr. CASE. Anything to be offered—that if an amendment or substitute for an amendment is to be acceptable, though not germane, it would have to be among those at the desk before the hour expired?

Mr. MANSFIELD. That is correct.

Mr. JAVITS. Mr. President, is it understood, too, that modifications which the mover himself wishes to make to his own amendment may be made within the context of that amendment?

Mr. MANSFIELD. Certainly.

The PRESIDING OFFICER (Mr. DOMENICI). Would the Senator from Montana clarify the situation on committee amendments? Is it intended that there be 1 hour on each divided into three parts?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. TOWER. Mr. President, reserving the right to object, let me point out that all the amendments we now know of would be amendments within the jurisdiction of about half the committees of the Senate. It therefore occurs to me that within the next hour we might get even more unrelated stuff, so that we

might need some time allotted to committee chairmen, or to committee counsel, those affected by this. I wonder whether we could not have the time agreement put into effect after such time or at such time as all the nongermane amendments have been filed?

Mr. MANSFIELD. The Senator is just as much aware as the leadership is of what we are confronted with for the remainder of this week, and maybe next week. I would urge the Senator from Texas to be a little forbearing and give us a chance, if possible, to operate on this basis. A Senator can always move to table anything which he thinks is out of place or is brought up too hurriedly.

Mr. TOWER. I will accede to the leadership's wishes.

Mr. MANSFIELD. I would appreciate it.

Mr. TOWER. But I am concerned that we have a real Christmas tree here.

Mr. GRIFFIN. Mr. President, reserving the right to object. I wonder whether the distinguished majority leader would consider the possibility of having 4 hours on the bill, with the understanding that the minority leader or the committee chairman would allocate from that time to any amendment, if necessary, and that would provide a little bit of a safety valve.

Mr. MANSFIELD. That would be fine. Would the distinguished minority leader consider the possibility of allocating one of those 4 hours to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), so that there would be 3 hours—we have an agreement on that 1 hour anyway——

Mr. GRIFFIN. Well, 3 hours is better than 2 hours.

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. MANSFIELD. Mr. President, I also ask unanimous consent that on nondebatable motions or appeals, there be 20 minutes, to be equally divided, under the usual procedure.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

The Chair would inquire, what was the agreement on the Senator from Michigan's suggestion?

Mr. GRIFFIN. As I understand it, 3 hours on the bill with the time to be equally divided, and that the time, of course, can be allocated in connection with debate on any amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. GRIFFIN. Is the situation now that, with the unanimous-consent request just agreed to, on any nongermane amendments not filed within 1 hour from now, they will not be eligible for consideration; is that correct?

The PRESIDING OFFICER. They would be subject to a point of order.

Mr. GRIFFIN. I thank the Chair.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Pamela Duffy of my staff may have the privilege of the floor during the consideration of the pending bill.

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

The question is on agreeing to the second part of the committee amendment. Who yields time?

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. I yield myself 15 minutes.

The PRESIDING OFFICER. On the bill?

Mr. HARRY F. BYRD, JR. I reserved 1 hour under the unanimous-consent agreement. I yield myself 15 minutes of that 1 hour.

Mr. President, once again I rise to express deep concern as to our Nation's financial condition. I realize that a majority of my colleagues do not share my concern. I realize that the executive branch of Government does not share my concern.

Nevertheless, if this inflation is to be brought under control, sooner or later Congress and the executive branch of Government must come to grips with the Government's own financial situation. It is a joint responsibility of the President and Congress.

Congress cannot say to the President, "You take care of it"; and the President cannot say to Congress, "It is up to you, and I am washing my hands of it."

If either group takes that view, we never will solve our problems. Unfortunately, I do not see much evidence that either Congress or the administration is serious about bringing the Government's financial condition under control.

Mr. President, during the 20-year period 1955 through 1974, the Government's Federal funds budget has been balanced only three times. Each of those three times was in the administration of President Eisenhower. The last fiscal year in which the Federal Government had a balanced budget was 1960. Since that time, the Federal funds deficit has varied from a low of $4.1 billion in 1961 to a high of $30 billion in 1971.

The disturbing aspect of these figures is that the deficits in recent years have become larger, not smaller.

During the 5-year period of fiscal 1970 through fiscal 1974, the accumulated Federal funds deficit will be $119 billion.

Let us put that in perspective. That $119 billion is 25 percent of the total national debt.

To state it another way, in the 5-year period ending June 30 of next year, 25 percent of the national debt of this country will have been accumulated during that short period. I think that is cause for alarm.

Speaking of the national debt, the interest cost to the taxpayers is $27.5 billion in the 1974 budget.

To put it another way, 17 cents of every personal and corporate income tax dollar goes for one purpose—to pay the interest on the Government's debt.

Mr. President, when the Secretary of the Treasury, Mr. Shultz, and the Director of the Office of Management and Budget, Mr. Ash, came before the Committee on Finance this past week to testify on this legislation, I put this question to both of them. First, to Mr. Shultz I said:

> Secretary Shultz, do you favor or oppose continued deficit spending on a Federal funds basis?

Secretary Shultz replied:

> Given the facts that we have large surpluses in the trust funds, then I think it would be a mistake to try to balance the budget on the Federal funds basis. What should be done, I think, depends upon the economic circumstances.

Mr. Ash, as the Director of the Office of Management and Budget, likewise stated that he did not favor a balance in the Federal funds budget.

To me, that is quite disturbing. If the chief fiscal officers of our Nation do not favor balancing the Government's budget, then I do not see much hope of a balanced budget being achieved.

I am particularly interested in Secretary Shultz' comment, because he said this:

> Given the fact that we have large surpluses in the trust funds, then I think it would be a mistake to balance the budget on a Federal funds basis.

The trust funds can be used only for a specific purpose. The surplus in the trust fund, now approximately $16 billion, is mainly from the social security taxes, payments made into the Treasury by the wage earners and by the employers for the specific purpose of paying social security benefits to our retired people. So this surplus cannot be used for the general operation of Government.

The only way we achieved a surplus in the trust funds was by Congress and the President, acting together, increasing the social security taxes. That brought about a temporary surplus. Because of that surplus, I supported, a little while ago, the cost-of-living increase for the social security beneficiaries. The money is already in the Treasury. It is already there. More than that, the Secretary of the Treasury says that so long as there is a surplus in the trust funds he does not favor balancing the Government's Federal funds budget.

To me, this latter assertion is very disturbing. We are not going to bring inflation under control until the Government gets its own spending under control. Yet, the highest officials in our Government make clear that they do not want to have a balance in our Federal funds budget.

I disagree with them. They may be right; I may be wrong; but I disagree with them. Both are able, fine men but more theoretical than realistic, it seems to me. What they think they can do is to handle the Government's finances as a spigot of water is turned off and on. Fine tuning, they call it. They themselves recommended an increase of $37 billion in the 2-year period fiscal 1973 and 1974 as compared to fiscal 1972.

Well, we have the highest inflation rate now than we have had in more than 20 years. We have the greatest budget deficits for the 5-year period ending next June 30 that we have ever had in the history of our Nation, with the exception of the 4-year period during World War II when we had 12 million Americans under arms and we were fighting a war in both Europe and in the Pacific.

We are floating in a sea of debt. The only way Congress and the administration will give concern to it is if the people themselves, the wage earners, the people who are suffering most from this inflation demand that we get Government spending under control.

William McChesney Martin one of the ablest financial experts in our country, in my judgment, testified before a subcommittee of the Committee on Finance that the major cause of the inflation we are experiencing today results from the continued huge deficits of the Federal Government. I certainly concur in Mr. Martin's appraisal.

Mr. PERCY. Mr. President, will my distinguished colleague, the Senator from Virginia, yield for a comment at this point?

Mr. HARRY F. BYRD, JR. I am happy to yield to the Senator from Illinois.

Mr. PERCY. I am happy to report to my colleague from Virginia that in questioning this morning, when Dr. Arthur Burns was before a Joint Economic Subcommittee, I put this question to him: In connection with stabilizing the dollar and restoring confidence in the dollar abroad, how important would it be to the world banking community and those in this country who are concerned about U.S. fiscal irresponsibility for Congress to invoke rigid procedures by which it would not appropriate moneys in any given fiscal year until it had imposed a ceiling on the budget, and not a ceiling made of rubber or elastic, whereby we must discipline ourselves and live within that budget? Dr. Burns said he could think of nothing more important to strengthen the dollar and restore confidence in the fiscal and monetary policies of this country than for Congress to do that, and it would be even more important for Congress to do that, than to have a ceiling simply imposed by the administration.

In 1968, when Senator John Williams of Delaware was a Member of the Senate we, the Senator from Virginia and the Senator from Illinois, put a ceiling on expenditures which ultimately gave us the first balanced budget in years, and the last since then.

In a Subcommittee on Government Operations chaired by the Senator from Montana (Mr. METCALF), with the Senator from Ohio serving as the ranking Republican (Mr. SAXBE), we are working out a procedure by which Congress can maintain the discipline necessary for a responsible fiscal policy in this country.

I cannot think of anything more important than the reiteration of these principles, of fiscal responsibility which the Senator from Virginia has maintained ever since he has been in public life, to be once again enunciated today.

At long last, $73 billion later, we realize the ruinous effect on the economy, the country, low, fixed-income people, of the kind of irresponsible Federal spending that we in Congress participated in during the past decade or more.

I thank my distinguished colleague for his valued comments.

Mr. HARRY F. BYRD, JR. I thank the Senator from Illinois. He is so right and I am pleased that he brought to the Senate the comments of the Chairman of the Federal Reserve Board, Dr. Arthur Burns.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. HARRY F. BYRD, JR. I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HARRY F. BYRD, JR. I think Dr. Burns is a man of unusual ability, a man in whom I have great confidence.

I wish to invite the attention of the Senator from Illinois to one figure he mentioned in connection with the balanced budget in 1969. Of course, he was speaking on a unified basis—namely using trust fund surplus—because the deficit in 1969 on a Federal funds basis was $5.5 billion. But that was reduced from the previous year of $28.4 billion, so it was going in the right direction. Now, unfortunately, we are going precisely in the wrong direction.

The Senator from Illinois mentioned the attitude of the foreign financial community. I have some figures before me showing reserve assets of the United States and also liquid liabilities to foreigners.

I notice that in 2 years and 3 months, from December 31, 1970, to March 31, 1973, our liquid liabilities to foreigners has almost doubled; namely, from $47 billion at the end of 1970, to $91 billion on March 31, 1973. That is another indication of the Government's very seriously deteriorating financial situation.

I put a number of questions to the Budget Director and to the Secretary of the Treasury when they appeared before the Committee on Finance last week. At the appropriate time I will insert in the RECORD some of those statements.

Mr. President, we cannot continue to go into major new programs and not expect to wind up with a smashing deficit. Just last year the administration recommended and Congress approved taking $30 billion over a 5-year period and turning it over to the 50 States and 38,000 different communities, the so-called revenue-sharing proposal. I contended at the time there is no revenue to share. The Federal Government only has deficits.

Just the year before that the administration proposed and the Congress approved a reduction in taxes of $14 billion a year, at a time when we were running a deficit of $30 billion. To me that seemed not too wise. It further accentuated the severe financial situation.

Now, we are coming up with a new program of aid to North Vietnam at a time when we are running a budget deficit of $30 billion. How foolish can we get?

Where is all this going to stop?

I just want to suggest to the housewives of our Nation that when they go to the grocery store to buy groceries, one of the major reasons for the higher prices of these groceries is the continued smashing Government deficits. This huge continued spending by the Federal Government must be paid for in one of two ways or both; either by taking more money out of the pockets of the wage earners or by more inflation, namely higher prices.

And more inflation is an additional tax on the earnings of the people of our country.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HARRY F. BYRD, JR. I yield myself 2 additional minutes.

Mr. President, at this point I ask unanimous consent to insert in the RECORD some questions which I put to the Secretary of the Treasury, Mr. George Shultz, and to the Director of the Office of Management and Budget, Mr. Roy Ash. Following that, I ask unanimous consent to have inserted in the RECORD three tables which I have prepared, showing the financial condition of the Treasury over a period of time.

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

The CHAIRMAN. Mr. Byrd?

Senator BYRD. Thank you, Mr. Chairman.

Mr. Ash, am I correct in this assertion: the Administration recommended an increase of $18 billion in the federal budget for fiscal year 1973 as compared to 1972?

Mr. ASH. The numbers are approximately $232 billion for fiscal '72 and $250 billion for '73, so that is $18 billion.

Senator BYRD. Am I correct that the Administration recommended an increase of $19 billion for fiscal 1974 versus 1973, namely, from $250 billion to $269 billion?

Mr. ASH. Yes, sir, that is correct.

Senator BYRD. So, if the expenditures are held to those figures, still it represents an increase in spending during that two-year period of $37 billion?

Mr. ASH. An annual spending rate increase, that is certainly right.

Senator BYRD. And that increase, which was recommended by the Bureau of the and by the Administration, the last one represents an increase of, roughly, 8½ percent, I believe?

Mr. ASH. That is about the right percentage number. I might indicate here a matter that was set forth in the budget submitted earlier this year, that we are running at current times under a condition where approximately 75 percent of the federal budget is considered relatively uncontrollable; that is, matters such as Social Security—which we have earlier discussed—and others like that.

So, when one speaks of the Administration's recommendations, I want to make clear that this is not all discretionary type decisions or recommendations and that three-fourths of the amount is pretty well already built in by earlier decisions of the Administration and of the Congress and of legislation itself.

Senator BYRD. Well, without debating that point, the fact that I want to establish—and if I am in error let me know—the fact I want to establish is that athe Administration recommended an increase of $18 billion for fiscal '73 versus 1972, and the Administration recommended an increase of $19 billion for fiscal '74 versus '73.

Mr. ASH. That is correct and, of course, the

question of the Social Security which is involved in the unified budget proposal, let's deal only with what the debt limit is concerned with, namely, the federal funds budget.

Now, first, as I read the figures, for the 20-year period, 1955 through 1974, the federal funds budget has had a surplus only three times during those 20 years and they were the three years of President Eisenhower's Administration. We have not had a balanced budget or anything approaching a balanced budget since 1960.

Now, is this cause for alarm in your judgment?

Mr. ASH. Well, I will first answer and then suggest that Secretary Shultz may also wish to add to it. I think there have been times during the era that you have discussed, where there have been causes for alarm. I have in mind, particularly, those years 1966 through 1969, where not only was there a federal funds deficit of from $54 billion for that four-year period of time but there was, also, a full employment deficit of $43 billion, which, in effect, was a substantial contribution to inflation contributed to by that.

Senator BYRD. I am sorry you brought up the full employment budget. I didn't want to debate that. Could we not stick with the federal funds budget?

If it were not for the deficit in the federal funds budget, you would not be here today.

Mr. ASH. I believe Secretary Shultz's answer was, of course, the federal funds budget is part of the unified budget and contributes to whatever the budget's total is, but, yes, the debt relates to the federal funds budget particularly.

Senator BYRD. That is right. So if it were not a deficit in the federal funds budget, you would not be here today?

Mr. ASH. That is correct.

Senator BYRD. So why don't we, if we could—and you can answer any way you wish—but if we could, I would like to stick with the federal funds budget.

Mr. ASH. All right, sir, let's do that.

Senator BYRD. Now, since 1960, there has been a deficit in the federal funds budget from a low of $4.1 billion in 1961 to a high of $30 billion in 1971. So there has been a deficit every year since 1961.

My question to you is: Is that cause for alarm?

Mr. ASH. Well, I think that is certainly cause for concern. It is a matter, I am sure, we are giving considerable concern to in the Administration, as well as here. I think it is a cause for alarm only at times when the federal funds deficit is such that it, itself, contributes to inflation and I don't have to make reference to the full employment budget to identify those occasions, but when the federal funds deficit is employed deliberately as a tool to bring the economy up to its full scale of operations, then that is the proper time or proper occasion to encourage federal funds deficit, and that has been, of course, the fact of these last four years.

On the other hand, when the federal funds deficit adds to inflation, then I agree with you that it is a cause for considerable alarm.

Senator BYRD. Do you feel that these recent smashing deficits in the federal funds budget, which the government has been running at, do you feel that is a major cause for the inflation we have today?

Mr. ASH. I think that it is hard to identify all of the causes, but I think if one were to look at the use of the federal funds budget over the years, he would conclude that there has been much less contribution to inflation of the federal funds deficit in the last four years than there was in the four that preceded those. Those were the times when inflation was set loose by a large federal funds deficit.

These last four years, they have contributed much more to the development of our economy to its fullest utilization.

Senator BYRD. Since you brought up the past four years and you also brought up some previous years—and I would want your staff to check these figures—but the way I add them up, during the eight years of the Kennedy-Johnson Administration, the accumulated federal funds deficit was $86.1 billion. Now, during the four years of the present Administration, namely, 1971 through your projections for 1974, the accumulated federal funds deficit will be $105.9 billion compared with the deficit of $86.1 billion for the eight years of the Kennedy-Johnson Administrations.

Mr. ASH. My numbers agree with yours, sir.

Senator BYRD. You do not find that cause for concern?

Mr. ASH. Well, I think that deficits in the federal funds budgets are always matters of concern, but I think it is the circumstances under which those deficits are incurred that most of all must be kept in mind and those circumstances were substantially different in at least the second half of that eight-year period to which you referred, than they were in this most recent four-year period.

So that the numbers, as I see them, cannot be merely compared number to number; they have to each be related to the economic circumstances of the time. And in so relating them, I believe that, as I would see it, there is a greater concern for the second half of that eight-year period that you mentioned than I would have for the most recent four-year period, because of the environment, the economic environment, in which these different sets of deficit numbers were incurred.

Senator BYRD. Well, it is very interesting to get your philosophy. You were not in public life in the 1968 period. You may have been but——

Mr. ASH. No, I wasn't.

Senator BYRD. But I know that many in public life in 1968, particularly those who are part of the present Administration, and the Senator from Virginia, were very critical, entirely critical, of President Johnson's smashing deficit of $28.4 billion in '68. Let me put it this way: I thought it was a very shocking and very bad deficit and was leading to the inflation which we experienced. That was exactly the view taken by President Nixon in the campaign of 1968.

Now, we come to the next four years or the four years rather beginning in 1971, where we had a federal funds deficit of $30 billion. In 1972, we had a federal funds deficit of $29.2 billion; in 1973, we had a federal funds deficit or will have at the end of this year of $28 billion and you project next year a federal funds deficit of $19 billion. What I haven't been able to get through my mind—and I guess maybe I am not enough of an economist—or enough of a political partisan—is why it is so terrible to have a $28 billion deficit in 1968 under a Democratic President, but so fine to have $30 billion deficits in the subsequent years under a Republican President.

Mr. ASH. Well, maybe it is necessary we talk in terms of the full employment budget, Senator. I realize your reluctance to do so, but——

Senator BYRD. I have no reluctance to do so. I was just trying to keep out of an unnecessary argument.

Mr. ASH. I find it is a necessary means to explain my views on this particular matter, though. First, I certainly agree with you, Senator Byrd, in your view of '68. I then was a private taxpayer, but was one of those few taxpayers who was actively promoting a tax increase to deal with the issues as they then stood. It was obvious, at least to me, and I am sure to you, Senator, and many others, that that was a very inflationary circumstance and it was essential, as we saw it, to try to dampen the inflationary force that such a deficit had in that area. Unfortunately, it wasn't done. In this particular——

Senator BYRD. My time has expired but identify which years you are talking about?

Mr. ASH. I was talking about 1968, particularly, when this was a substantial contribution to inflation.

When we deal with the current year of '74, I think there is one very interesting matter to consider there and, that is, while it is true there is a federal funds deficit in fiscal '74, I think it is a very significant fact that federal funds transactions with the public in 1974, do have a surplus and——

Senator BYRD. Now, we are getting into another budgetary concept. I thought we were going to get into a new one next year, but apparently we are going to get to that before next year.

Anyway, my time has expired. We will get back to this again.

Secretary Shultz, do you favor or oppose continued deficit spending on a federal funds basis?

Secretary SHULTZ. Given the fact that we have large surpluses in the trust funds, then I think it would be a mistake to try to balance the budget on the federal funds basis, but what should be done, I think, depends upon the economic circumstances.

Senator BYRD. Do you consider the $16 billion surplus in the trust fund as a real surplus?

Secretary SHULTZ. Yes. I think that in judging the impact of the budget on the economy, we have to add all of the things up that the federal government does.

Senator BYRD. I understand that.

Secretary SHULTZ. Whether they are trust funds or otherwise, they must be added and taken into account and then see what the balance amounts to.

Senator BYRD. It is correct, is it not, that the trust funds can be used only for a specific purpose?

Secretary SHULTZ. That is correct.

Senator BYRD. Mr. Ash, do you favor or oppose a balanced budget on the federal funds basis?

Mr. ASH. I would certainly join in Secretary Shultz' statement that a balance coming from federal and trust funds, makes the best economic sense and that it would not be proper to have a balance on the federal funds unless, at the same time, there were simultaneous balance in the trust funds, so that the total unified budget would also be balanced.

Senator BYRD. I just wanted to establish the thinking of the two high people in our government.

I assume both of you would oppose any legislation which would require a balanced budget on the federal funds basis?

Secretary SHULTZ. Yes, sir. I can imagine circumstances where I would favor a balanced budget on the federal funds basis, that is, if the trust funds were operating at a deficit and the economy weren't operating at capacity, then I think it would be appropriate if we had a kind of circumstance, but it depends, in other words, on the circumstances.

Senator BYRD. Mr. Ash, does the continuing and, in my judgment, the accelerating inflation disturb you?

Mr. ASH. It disturbs me and I am sure it disturbs most everybody in the Administration. This is why actions have been taken and continue to be considered for dealing with that very problem.

Senator BYRD. How seriously do you view the inflationary spiral, Mr. Secretary?

Secretary SHULTZ. Oh, I think it is a problem of the first magnitude.

Senator BYRD. Do you regard the huge gov-

ernment deficits, as typified by the federal funds budget, as the major cause of the inflation?

Secretary SHULTZ. Well, I think that the large deficits at full employment in the last part of the '60's are what gave it its big boost.

This most recent outburst in the first quarter, I think, has some special characteristics associated with it, but I believe that the tightening of fiscal policy that is now going on is quite appropriate.

Senator BYRD. The federal funds deficit for '71 were $30 billion. The federal funds budget for '72 was $29.2 billion. The federal funds deficit for '73 is $27.9 billion; the federal funds deficit for the upcoming year, as projected by you, is at $18.8 billion. Do you regard that as being inflationary?

Secretary SHULTZ. Well, I think as we have discussed many times, that the federal funds surplus or deficit is not the right concept to use in judging the relationship of the federal budget to problems like economic expansion or inflation and that the unified budget is a more useful concept.

Senator BYRD. Well, is your answer to my question, yes, or no?

Secretary SHULTZ. Well, the answer to your question is that I think that the fiscal thrust provided by the federal government in the last couple of years was appropriate under the circumstances.

Senator BYRD. That really wasn't my question.

What I am trying to ask—

Secretary SHULTZ. But I think if your question is, could we curb inflation for sure by seeing to it that the economy operated with eight percent unemployment; the answer is, yes. You could control inflation that way but we don't want to.

Senator BYRD. That is not my question at all, and you know it is not my question.

I asked what I thought was a reasonable question. My question is, in 1971 we had a $30 billion deficit; in 1972 we had a 29.2 billion deficit; in 1973 we had a $27.9 deficit; and you project a $18.8 billion deficit for the upcoming year.

My question is: Do you regard that as being inflationary?

Secretary SHULTZ. I feel there is little doubt that we would have a lesser rate of inflation today if we had a balance, if we had had a balance in the federal funds budget during those years. I think I should add; I also believe we would have a lot less jobs, a lot less production, a lot less of other things that we want.

Senator BYRD. For the fiscal years 1970 through 1974, the accumulated federal funds deficit will be $119 billion and that is precisely 25 percent of your projected national debt, the total national debt. Now, does the fact that we have accumulated 25 percent of the total national debt in just five years disturb you?

Secretary SHULTZ. I would certainly have preferred that the economy maintain itself on a steady path of growth at full employment, with a balanced budget on the unified basis.

So, in a sense, it hasn't done that; yes, it disturbs me and I wish somehow or other it had been possible to do it otherwise.

However, I think that with the economy operating below capacity, we should have the courage to use federal fiscal policy as a tool in expanding the economy and not be afraid of it.

Senator BYRD. Well, if by that you mean creating huge deficits, you have certainly accomplished that; no question about that . . .

Senator BYRD. You had a deficit of $28 billion following your own figures; which is to say, that your own recommendations—and not what the Congress did, regardless of what the Congress did—but your own figures, your own budget recommendations projected a federal funds deficit of $28 billion; is that not correct?

Secretary SHULTZ. Correct.

Senator BYRD. And your own budget figures, assuming that Congress doesn't appropriate one dollar more than you advocate, still will mean a deficit of $19 billion in the upcoming year?

Secretary SHULTZ. Correct.

[In billions of dollars]

	Fiscal year—						
	1968	1969	1970	1971	1972	[1] 1973	[1] 1974
RECEIPTS							
Individual income taxes	69.0	87.0	90.0	86.0	95.0	101.0	115.0
Corporate income taxes	29.0	37.0	33.0	27.0	32.0	36.0	40.0
Total	98.0	124.0	123.0	113.0	126.0	137.0	155.0
Excise taxes (excluding highway)	10.0	11.0	10.3	10.5	9.1	11.9	13.2
Estate and gift	3.0	3.5	3.6	3.7	5.2	5.0	5.4
Customs	2.0	2.3	2.4	2.6	3.2	3.2	3.5
Miscellaneous	2.5	3.0	3.4	3.9	3.5	3.9	3.9
Total Federal fund receipts	116.0	143.0	143.0	134.0	149.0	161.0	181.0
Trust funds (social security retirement, highway)	38.0	44.0	51.0	54.0	60.0	71.0	85.0
Total	154.0	188.0	194.0	188.0	209.0	232.0	266.0
EXPENDITURES							
Federal funds	143.0	149.0	156.0	164.0	178.0	189.0	200.0
Trust funds	36.0	36.0	40.0	48.0	54.0	61.0	69.0
Total	179.0	185.0	196.0	212.0	232.0	250.0	269.0
Unified budget: surplus (+) or deficit (−)	−25.0	+3.1	−2.0	−24.0	−23.0	−18.0	−3.0
Federal funds deficit	−27.0	−6.0	−13.0	−30.0	−29.0	−28.0	−19.0

[1] Estimated figures.

Note: Prepared by Senator Harry F. Byrd, Jr. of Virginia.

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1955–74 INCLUSIVE

[Billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1955	58.1	62.3	−4.2	6.4
1956	65.4	63.8	+1.6	6.8
1957	68.8	67.1	+1.7	7.3
1958	66.6	69.7	−3.1	7.8
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	11.0
1965	90.9	94.8	−3.9	11.8
1966	101.4	106.5	−5.1	12.6
1967	111.8	126.8	−15.0	14.2
1968	114.7	143.1	−28.4	15.6
1969	143.3	148.8	−5.5	17.7
1970	143.2	156.3	−13.1	20.0
1971	133.7	163.7	−30.0	21.6
1972	148.8	178.0	−29.2	22.5
1973 [1]	160.9	188.8	−27.9	24.2
1974 [1]	181.0	199.8	−18.8	27.5
20-year total	2,055.8	2,273.2	217.4	273.4

[1] Estimated figures.

Source: Office of Management and Budget and Treasury Department.

Note: Prepared by Senator Harry F. Byrd, Jr. of Virginia.

U.S. GOLD HOLDINGS, TOTAL RESERVE ASSETS AND LIQUID LIABILITIES TO FOREIGNERS

[Selected periods in billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
Dec. 31, 1957	22.8	24.8	15.8
Dec. 31, 1970	10.7	14.5	47.0
Dec. 31, 1971	10.2	12.2	67.8
Dec. 31, 1972	10.5	13.2	82.9
Mar. 31, 1973	10.5	12.9	90.9

Note: Prepared by Senator Harry, F. Byrd, Jr., of Virginia, June 1973.

Source: U.S. Treasury Department.

Mr. HARRY F. BYRD, JR. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I ask unanimous consent that the yeas and nays be ordered on the next portion of the committee amendment.

The yeas and nays were ordered.

Mr. LONG. Mr. President, this amendment has been explained before. Its major provision would provide slightly more than a cost-of-living increase for those aged, blind, and disabled who will rely upon the supplemental security income program which will entirely replace, in many States, the welfare program for the aged, blind, and disabled, and in the rest of States largely replace it.

Without this amendment, a substantial majority of the more than 5 million aged, blind, and disabled people, receiving SSI payments, those who are also social security beneficiaries, would find their SSI check reduced by the same amount by which they would receive an increase in their social security income. That is, for every dollar of increase they would receive in social security, there would be a reduction in their supplemental security income.

I am sure no one intends that sort of result.

There is another committee provision that is just as compelling, the one protecting the so-called essential persons, who, for the most part, are wives below the age of 65 whose husbands over 65 are welfare recipients. These couples would

actually have a cut in their income, come January 1, unless we enact this provision to correct the oversight that existed in H.R. 1.

A similar oversight exists with regard to those medically needy persons who are currently regarded as being disabled under State programs, but who will not be regarded as being disabled under the definitions in the Federal program, and who will thus lose their medicaid eligibility when the Federal SSI program come next January displaces the State program of aid to the aged, blind, and disabled.

To correct two important oversights in H.R. 1, as well as to insure that the beneficiaries of the Federal substitute for the State welfare program, the SSI program, would share in the social security cost-of-living increase, it is necessary that this part of the committee amendment be agreed to.

I am prepared to yield back the remainder of my time.

Mr. BENNETT. Mr. President, I shall take just a moment. I agree with the need for this legislation, and I think the solution worked out by the committee is a good one, but I do not think this is the proper place to consider it.

For that reason, and that reason only, I shall vote against it, but I have no objection to getting to the vote, and I shall be glad to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I would like to commend the Finance Committee for the actions it has taken in this bill in the area of health.

The bill extends project grant authority under title V of the Social Security Act to fund maternal and child health services. Were it not for this provision, funds formerly awarded to individual projects for health services to mothers and children would be divided among the States on a basis of formula. This allocation process would result in many States receiving drastically fewer funds for the support of these services than they have received in the past. These States that would suffer reductions are those which have worked the hardest to implement projects in maternal and child health care. This bill extends the project authority until June 30, 1974, and modifies the formula that would be used to allocate the funds to the States commencing on that date to assure that no State, nor any of the individual health services projects involved is set back in their program by this allocation process.

This bill also makes changes in eligibility requirements under the medicaid program to assure that some spouses of aged, blind, or disabled Americans, or persons who are ineligible for cash assistance because they are inpatient institutions, and others continue to be eligible when the Federal supplemental security income program goes into effect in January of 1974. I congratulate the committee for their concern for these Americans who otherwise would have been lost in one of the gaps in our complex health and welfare programs, and suffered great personal loss as a result.

Finally, I am pleased that the committee has seen fit to repeal section 225 of Public Law 92–603, which would have limited Federal reimbursements to nursing homes to 105 percent of the prior year's level of payment. While the intent of this limitation was well meaning, its application to nursing homes alone during the current period of rapid inflation would have been inequitable and discriminatory. I support therefore the repeal of this limitation.

All of these items in the area of health are essential and urgent matters. I commend the Committee on Finance for including them as part of the debt limit bill.

Mr. PERCY. Mr. President, as chief cosponsor of S. 1543, I take this opportunity to commend the Finance Committee, especially Senator LONG, the committee chairman, and Senator MONDALE, the sponsor of S. 1543, for their fine efforts to incorporate in the bill an extension of the title V, social security maternal and child health project grant authority.

Although I have elaborated on the effectiveness and worth of these maternal and child health programs in my earlier statement when Senator MONDALE and I first introduced S. 1543, I would like to quote, at this time, from a comment made by Dr. Arthur Lesser, former Director of the Maternal Health and Child Care program at the Department of Health, Education, and Welfare, during a recent Nutrition Committee hearing on maternal, fetal, and infant nutrition. When asked to comment on how effective title V programs have been, Dr. Lesser replied:

> These programs have been effective in the reduction of infant mortality, particularly among low income infants. We see, in the last few years, for the first time, the beginning of the narrowing of the gap between the infant mortality of white infants and of black infants.

The extension of the project grant authority means that we will be able to continue the progress that we have made in maternal and child health. In Illinois, the extension means that the State will not lose 42 percent or $3.5 million of its maternal and child health funds. More important, it means that more than 180,000 pregnant mothers, infants, and children in Illinois will continue to receive proper care.

I firmly believe that this investment in maternal and child health is a worthwhile and necessary use of our resources. Let me again quote from testimony received by the Nutrition Committee during its recent hearings on maternal, fetal, and infant nutrition. Dr. Myron Winick, director of the Institute of Human Nutrition, Columbia University College of Physicians, testified:

> This problem (maternal and child health) is potentially more important than cancer or heart disease for it affects the quality of life from the cradle to the grave.

Mr. MATHIAS. Mr. President, I commend the distinguished chairman and the members of the Senate Finance Committee for approving a provision to the debt ceiling bill which will extend the authorization for project grants for the maternal and child health program until June 30, 1974. I intend to support this amendment today because it meets the purpose of S. 1543 which I cosponsored in April. But more importantly, the need for the extension of such special projects should be obvious.

The transition to formula grants on July 1, 1973, if we fail to pass this amendment, will adversely affect the ability of many States, including Maryland, to maintain the existing activities because of the sharp curtailment of Federal resources. In Baltimore, such substantial reduction may well force hundreds of pregnant women, mothers, and children to become dependent again on overcrowded emergency rooms and understaffed outpatient departments of city hospitals.

Wipe out these programs in Baltimore and we are back to the days of women delivering at the local hospitals who have had no prenatal care. Wipe out these programs and we are back to the days of thousands of newborn infants, preschool children and school-age youngsters from poor families who are left at the mercy of fragmented, episodic, and haphazard medical care. Wipe out these programs, and we can predict that the downward trend now apparent in the infant mortality rate, prematurity rate, hospitalization rate of preventive illnesses, mental retardation, and just about any other index of health the Congress would care to examine will sharply rise again in the poor communities.

There is no question about the cost effectiveness of these programs. As a matter of fact, Mr. President, this amendment will not even increase the President's budget. This amendment will, however, accomplish the following:

First, no State would be eligible for less funds after June 30, 1974, than the total amount allocated to a State in formula and project grants in fiscal year 1973, and, second, that States would be required to make appropriate arrangements for the continuation of services to the population in areas previously served under project grants. Under a special provision, in fiscal year 1974 a State would be authorized the greater of the total of fiscal year 1973 project and formula grants or the sum such State would have otherwise been entitled to if the project grants had not been extended during fiscal year 1974.

Mr. President, I urge all of my colleagues to support this amendment.

Mr. MONDALE. Mr. President, I would like at this time to urge my colleagues to adopt the Finance Committee's amendment to extend the authority of special projects for maternal and child health under title V of the Social Security Act.

In 1965, President Johnson's health message to the Congress expressed concern over the "great and growing need among our children for better health services." High priority was placed on meeting these needs and title V of the Social Security Act was modified so that special project grants would be made available for health services for children of school and preschool age, particularly in areas with concentrations of low-income families.

In 1967 Congress again reorganized title V of the Social Security Act to first, provide for formula grants to States for

support of maternal and child health and crippled children's programs, and second, provide authority for special project grants whereby maternal and infant care and children and youth projects might be expanded and further supported.

The idea was to attack the problem on two fronts. First, general support in the form of formula grants was to be available to all States with a plan to meet maternal and child health needs. Beyond that, special project grants were to make it possible to direct additional financial resources to geographic areas where the needs were concentrated.

Throughout their history these special projects have had profound impact upon the populations they serve. They have led to a more effective and efficient utilization of health manpower; to more effective health services in the communities they serve; and to improved working relationships between health care programs which had traditionally failed to coordinate their activities.

Maternal and infant care projects have significantly contributed to the reduction of infant mortality. In Providence, Rhode Island, for example, the project area showed a reduction of infant mortality from 47.4 percent per 1 thousand live births in 1966 to 25.2 percent per 1 thousand in 1970.

Children and youth projects have provided preventive and comprehensive service contributing to education in the rate and duration of hospitalization. There has been a 50 percent decrease in the number of children served by the projects who need costly hospitalization.

Intensive care for newborn babies under this program has also had a profound impact. At the University of Tennesses, for example, the project reported a 25-percent reduction in mortality of premature babies in the first year of its operation.

In short, these health care projects not only produce new ideas but have been powerfully instrumental in bringing comprehensive health care of high quality to substantial numbers of mothers and children across the country. The projects did not replace former programs but instead were designed to serve a dire medical need and to fill a disastrous void in health care services for various populations.

Hundreds of thousands of women and children are receiving continuous and comprehensive care which otherwise would not be available. An invaluable service is being rendered and will cease June 30 if Congress does not act now.

For these reasons I urge my colleagues to vote for the extension provided by the Finance Committee amendment.

I ask unanimous consent to place in the RECORD at this time two letters indicating the support of these programs by the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, and the American Medical Association.

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

AMERICAN ACADEMY OF PEDIATRICS,
Evanston, Ill., June 18, 1973.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: S. 1543 provides a two year extension of the Special Project Grants under Title V of the Social Security Act (Maternal and Child Health). The American Academy of Pediatrics, gravely concerned over the general state of inadequate preparation for the transition from project grants to formula grants and the indications that existing projects are being closed and/or very significantly reduced in scope of services, wishes to commend S. 1543 (Mondale bill) for favorable consideration by the Finance Committee.

During the 92nd Congress, the Academy had recommended a five year extension of the Special Project Grants. A one year extension was granted, primarily at the exhortation of the Administration in order that it might review maternal and child health activities along with other health programs so that definitive recommendations could be made for future action. In March of this year representatives of the pediatric community met with White House officials to discuss the very serious problems being encountered with the proposed project expiration. Assurances were granted that alternatives would be sought to provide that projects would neither close nor be significantly reduced. Alternatives have not yet been proposed and in consequence thereof, thousands of pregnant women and young children face the termination of health care services within the next two weeks.

Existing programs will not be able to rely upon payments by recipients or third party reimbursement. Those covered by Medicaid receive many services not covered by Title XIX, which may only pay for inpatient care of some children. The recent (May 2, 1973) GAO report on "Implementation of a Policy of Self-Support by Neighborhood Health Centers" prepared for the Senate Labor and Public Welfare Committee discusses the numerous difficulties health projects encounter. Medically indigent families may be covered by neither Title XIX nor private insurance. Private insurance does not generally contain benefits which include payment for preventive, nutritional, health education and other such services provided by projects.

The Comptroller General's report to the Ways and Means Committee on Maternal and Child Health Programs (June 23, 1972) recommended that HEW should, among other things, consider a revision in the formula for distribution of Title V funds among states, to lessen the immediate impact of large reductions in funds on states having concentrations of low-income families. Proposals for revision have not been forthcoming.

Many states which appear to benefit by receiving a greater proportion of formula funds face serious difficulty in their ability to generate the required increase in state matching for Fund "A" monies. States have other pressing needs for money in maternal and child health programs, particularly in the Crippled Children's Program that has been operating under most difficult conditions during the past several years. Appended are notes on the impact of shortages of funds in many state Crippled Children's Programs which intensifies Title V inadequacies.

But, Title V Programs are effective. Maternity and Infant Care Projects have contributed to the reduction of infant mortality, the significance of which is appreciated when areas of large cities served by projects are compared to the remainder of the community. Children and Youth Projects have provided preventive and comprehensive services with a resultant 50 percent decrease in the number of children served by the projects who need costly hospitalization. The project cost data are impressive too. Whereas the average annual cost per child in these projects was $201.26 in 1968, it was reduced to $149.82 in 1970. This compares most favorably to information from a recent survey of Title XIX in 16 states covering over 2.5 million children wherein it was reported that the annual cost per child is $301.

The projects represent health care resources which have been established in areas of dire medical need, yet the services of several hundred medical, nursing and allied health personnel in these areas will be terminated in the next two weeks. It is not proposed that these projects be extended indefinitely but rather that they be extended for one or two years so that the medical community and the Administration may propose for consideration by the Congress necessary modifications to Title V. Every effort should be made to maintain the existence of established health care resources now in areas of greatest need so that they are not dismantled only to be re-established with great difficulty when national health insurance is adopted.

The American Academy of Pediatrics with the cooperation of other medical and public health organizations, is developing a report on maternal and child health. Rather than address exclusively the formula versus project issue, it is anticipated that a wide range of options and alternatives will be proposed so that maternal and child health might become a greater national priority. It is anticipated that these recommendations with background information will be available in January 1974.

The United States now needs a clear public policy which recognizes the special needs of mothers and children and the unique benefit to be appreciated from an investment in this segment of our population. Most programs and initiatives now existing are due to the interest of the Senate Finance and House Ways and Means Committee and support of the members of Congress. It is the sincere desire of the American Academy of Pediatrics to constructively assist you in further efforts. An extension is now sought (S. 1543) so that the Congress might consider recommendations from the medical community in revising Title V and our national maternal and child health programs in the coming months.

Sincerely yours,
ROBERT M. HEAVENRICH, M.D., *President.*

AMERICAN MEDICAL ASSOCIATION,
Chicago, Ill., May 21, 1973.

The Honorable RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: The American Academy of Pediatrics, the American College of Obstetrician and Gynecologists, and the American Medical Association join in this letter to place emphasis upon the need for early consideration of legislation to extend federal support for expiring programs under Title V of the Social Security Act. S. 1543, pending before your Committee, provides for a two-year extension.

Title V provides for certain project grant programs, in addition to formula grants, for maternal and child health and crippled children's services. Under present law the project grants authorization will expire on June 30, 1973. While it is intended that the portion of the funds previously allocated for special project grants would, as of July 1, 1973, be included in the formula grant, we believe that this shifting of fund support is premature and is not in the best interest of achieving maximum program results. In our opin-

ion additional time is needed so that states will have sufficient time to provide for the orderly transition of the special projects management under formula assistance.

Formula grant programs are the major sources of care for mothers and children who do not have access to private care for preventive services and treatment of sickness. The project grants provide health services to mothers and infants (M & I Projects) and to children and youth (C & Y Projects). The maternal and infant care projects now in operation have substantially reduced infant mortality rates in areas where they have traditionally been highest by providing early and comprehensive medical care to high risk women and follow-up treatment for mothers and infants. In addition, the children and youth programs have provided preventive health services, diagnosis, treatment, and after-care, as well as early identification of defects which are correctable.

Our organizations place a high priority on these programs, which provide for improvement of health care of mothers, infants, and children for whom such services would not otherwise be available. The expiring programs have been instrumental in improving the quality of life for countless numbers of individuals.

Existing programs must be continued if we are to meet the health needs of mothers and infants, and our children and youth. Ongoing programs should not be placed in jeopardy. Communities which are endeavoring to create new maternal and child health programs, or to expand existing programs, should be encouraged to do so. Early Congressional support for these programs is vital to continuation and expansion of the programs. This is necessary if the programs are to achieve their potential. Failure to do so would invite discouragement and frustration for those dedicated individuals involved in these programs. More importantly, a failure to express strong support can result in curtailment of necessary health services.

We appreciate the past consideration of your Committee in providing for the maternal and child health programs. In particular we acknowledge the concern which has made possible these special project grants under Title V. An extension of this authority for special project grants is needed. We urge that you act favorably on legislation specifically providing for the continuation of these project activities.

Sincerely,

AMERICAN ACADEMY OF PEDIATRICS,
ROBERT G. FRAZIER, M.D.,
Executive Director.

AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
MICHAEL NEWTON, M.D.,
Director.

AMERICAN MEDICAL ASSOCIATION
ERNEST B. HOWARD, M.D.
Executive Vice President.

The PRESIDING OFFICER. The question is on agreeing to part two of the committee amendment. 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 Florida (Mr. CHILES) is necessarily absent.

I further announce that the Senator from Iowa (Mr. CLARK), and the Senator from Delaware (Mr. BIDEN), are 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 Iowa (Mr. CLARK) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is detained on official business.

The Senator from Tennessee (Mr. BROCK) is necessarily absent.

The result was announced—yeas 84, nays 10, as follows:

[No. 240 Leg.]

YEAS—84

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

NAYS—10

Bennett	Goldwater	Thurmond
Buckley	Griffin	Tower
Curtis	Hansen	
Fannin	McClure	

NOT VOTING—6

Biden	Brooke	Clark
Brock	Chiles	Stennis

So the second part of the committee amendment was agreed to.

Mr. LONG. Mr. President, I take it that the third part of the committee amendment is now before the Senate under the unanimous consent agreement.

The PRESIDING OFFICER. The question is on the third part of the committee amendment.

Mr. LONG. Mr. President, this part of the amendment provides for a 6-month delay in the regulations concerning social services put out by the Department of Health, Education, and Welfare.

The PRESIDING OFFICER. Can we have order in the Senate, please.

The Senator from Louisiana may proceed.

Mr. LONG. Mr. President, last year we limited Federal social services expenditures to $2.5 billion. I am confident that the Senate and the Congress really intended that the States should have an opportunity to use the $2.5 billion we made available to them for this purpose. But the regulations agreed upon between the Office of Management and Budget and the Department of Health, Education, and Welfare would reduce the amount of services to the poor in the 50 States by at least $1 billion and maybe a lot more than that.

As far as I can determine, Mr. President, there is not one State in the 50 States that agreed to those regulations. In the committee the vote that this matter should be postponed for 6 months was virtually unanimous.

I am sure that every Senator would agree if he reads the examples I set forth in the RECORD yesterday of some of the rather ridiculous regulations. He would agree that these regulations should be postponed until January 1 so that the Congress would have an opportunity decide what kind of legislative it wants to write in this area.

I am confident, Mr. President, that we in the Congress can provide a far better answer than the Department of Health, Education, and Welfare would provide.

In view of the fact that we could expect that the department would recommend a veto on this item, it would be well to have on the record a vote so that the department could recognize the enormous support that exists in the entire country and in the Congress for this part of the committee amendment.

For that reason, I think it is important that we have a rollcall vote on this measure.

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

Mr. PACKWOOD. Mr. President, I join with the Senator from Louisiana in what he has had to say about these regulations and the amendment the Committee on Finance has added to the public debt limit extension bill to delay until January 1, 1974, the implementation of regulations or social services programs. These new regulations which were issued by the Department of Health, Education, and Welfare on May 1, are scheduled to go into effect next week. If allowed to become effective, the regulations will seriously damage many existing social services programs which constitute the primary aspect of our welfare policy which is clearly focused on helping the poor to get themselves off welfare or to avoid it in the first place. They will thwart what the States hope to provide and what Congress intended they receive.

Some of the statements which have been made in connection with the issuance of these new regulations indicate that HEW sees a justification for the proposed regulations in the action taken by Congress last year in placing a $2.5 billion limit on Federal funding for social services and in placing emphasis on certain priority services and restrictions on the extent to which services may be provided to persons who are not recipients of cash public assistance grants. I do not, however, believe that any reasonable review of the history and content of that 1972 legislation will support the Department's position that its new regulations are consistent with, much less required by, the intent of Congress. Mr. President, I ask unanimous consent to include at this point in the RECORD the relevant portion of Public Law 92–512, the Revenue Sharing Act.

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

TITLE III—LIMITATION ON GRANTS FOR SOCIAL SERVICES UNDER PUBLIC ASSISTANCE PROGRAMS

SEC. 301. (a) Title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"LIMITATION ON FUNDS FOR CERTAIN SOCIAL SERVICES

"SEC. 1130. (a) Notwithstanding the provisions of section 3(a) (4) and (5), 403(a) (3), 1003(a) (3) and (4), 1403(a) (3) and (4), or 1603(a) (4) and 5), amounts payable for any fiscal year (commencing with the fiscal year beginning July 1, 1972) under such section (as determined without regard to this section) to any State with respect to expenditures made after June 30, 1972, for services referred to in such section (other than the services provided pursuant to section 402(a)(19)(G)), shall be reduced by such amounts as may be necessary to assure that—

"(1) the total amount paid to such State (under all of such sections) for such fiscal year for such services does not exceed the allotment of such State (as determined under subsection (b)); and

"(2) of the amounts paid (under all of such sections) to such State for such fiscal year with respect to such expenditures, other than expenditures for—

"(A) services provided to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such services is needed (i) in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or (ii) because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child;

"(B) family planning services;

"(C) services provided to a mentally retarded individual (whether a child or an adult), but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual by reason of his condition of being mentally retarded;

"(D) services provided to an individual who is a drug addict or an alcoholic, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual as part of a program of active treatment of his condition as a drug addict or an alcoholic; and

"(E) services provided to a child who is under foster care in a foster family home (as defined in section 408) or in a child-care institution (as defined in such section), or while awaiting placement in such a home or institution, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such child because he is under foster care,

not more than 10 per centum thereof are paid with respect to expenditures incurred in providing services to individuals who are not recipients of aid or assistance (under State plans approved under titles I, X, XIV, XVI, or part A of title IV), or applicants (as defined under regulations of the Secretary) for such aid or assistance.

"(b)(1) For each fiscal year (commencing with the fiscal year beginning July 1, 1972) the Secretary shall allot to each State an amount which bears the same ratio to $2,500,000,000 as the population of such State bears to the population of all the States.

"(2) The allotment for each State shall be promulgated for each fiscal year by the Secretary between July 1 and August 31 of the calendar year immediately preceding such fiscal year on the basis of the population of each State and of all of the States as determined from the most recent satisfactory data available from the Department of Commerce at such time; except that the allotment for each State for the fiscal year beginning July 1, 1972, and the following fiscal year shall be promulgated at the earliest practicable date after the enactment of this section but not later than January 1, 1973.

"(c) For purposes of this section, the term 'State' means any one of the fifty States or the District of Columbia."

(b) Sections 3(a)(4)(E), 403(a)(3)(D), 1003(a)(3)(E), 1403(a)(3)(E), and 1603(a)(4)(E) of such Act are amended by striking out "subject to limitations" and inserting in lieu thereof "under conditions which shall be".

(c) Section 403(a)(5) of such Act is amended to read as follows:

"(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children."

(d) Sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a), of such Act are amended, in the matter preceding paragraph (1) of each such section, by striking out "shall pay" and inserting in lieu thereof "shall (subject to section 1130) pay".

(e) The amendments made by this section (other than by subsection (b)) shall be effective July 1, 1972, and the amendments made by subsection (b) shall be effective January 1, 1973.

Mr. PACKWOOD. Mr. President, it is true that Congress was concerned—and rightly so—with the rapid escalation of Federal funding requirements under this program last year. In November of 1971, the States had estimated their fiscal 1973 needs at about $1.3 billion and this was the amount requested in the 1973 Federal budget. By early 1972, this had increased to something over $2 billion, and unofficial estimates in mid-1972 projected new uses of the program which could bring the total Federal funding to nearly $5 billion for fiscal 1973. No matter how worthy or desirable the programs involved, it would be irresponsible for Congress to allow a situation to continue in which, without any measure of Congressional review or control, the Federal Government was being obligated to make enormous additional expenditures not even hinted at in the original budget requests. And I stress the words, "without any review or control." It is therefore not surprising that we took the action we did in placing a $2.5 billion limit on Federal funding available for social services as of fiscal year 1973.

It is, however, absolutely wrong to read into that action by the Congress a repudiation of the basic concept of social services or a mandate for cutting back service programs. Quite the opposite is true. The 1972 revenue sharing legislation did not make any basic change in the program content of the social services provisions of the law, but merely placed a dollar limitation on the funding available for the program and established, in view of the newly limited funding, certain formulas for allocating the funding among the States. Additionally, as I mentioned, that legislation listed five priorty services for low income individuals not on welfare but likely to be so in the absence of services.

It is important to note that the dollar limit chosen, $2.5 billion per year, did not represent a fiscal cutback but rather a commitment to continue the allocation of Federal funds for social services at the on-going level. It was a cutback only in the sense that it halted ambitious expansion plans and shift-overs of existing State financed programs to 75 percent Federal matching, which together would apparently have doubled the level of funding required by on-going programs. Except as a result of the allocation formulas, which had a cut-back effect in a few States, it did not reduce current program levels, and in fact allowed at least some continued growth in most States.

It is a little difficult to understand how a congressional action which specifically attempted—within the limits of what could equitably be accomplished—to maintain the then existing allocation of Federal funding for services could be used to justify regulations which are so severe that many State welfare directors believe that scarcely half the available funds can be used.

The greatest problem with the new regulations is, I think, in the area of what are called preventive services, that is, services which do not go only to welfare recipients but which are intended to prevent people from having to go on welfare.

The law we passed last year limiting to $2.5 billion the Federal funding for services also included a provision under which at least 90 percent of the Federal funds for services in each State would have to be used for actual welfare recipients except that this restriction would not apply to five specifically exempted priority services: child care, family planning, mental retardation, drug abuse and alcoholism treatment, and foster care. The Department of HEW cites this so-called 90–10 limit as an indication of congressional intent that social services should be concentrated on actual welfare recipients. This is not just oversimplification, it is oversimplification to the point of virtually complete distortion.

When Congress passes a law which contains a rule and certain exceptions, an accurate assessment of congressional intent must take into account both elements. In issuing its new regulations, the Department of Health, Education, and Welfare in concentrating on the implications of the 90–10 rule, has totally ignored the implications of the exceptions to that rule, and thereby has almost totally missed the point of the legislation.

In specifically exempting five types of services from the limit, the law first of all and most obviously indicates an intent to give those particular services a distinct priority. But more than that, it shows a conviction on the part of Congress that for certain types of services welfare status is not a logical eligibility criterion. This would be the case, for example, with services to the mentally retarded.

Similarly, the exception from the limitation for services such as family planning and child care indicates a clear legislative judgment that these services are so essential in allowing people to remain self-sufficient and off welfare that any rational welfare policy demands that they not be arbitrarily limited primarily to those already on welfare. In this regard, I ask unanimous consent to print at this point relevant sections of

the Senate Finance Committee report on H.R. 1 (S. Rept. 92–1230) and Public Law 92–603, the enacted version of H.R. 1.

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

FAMILY PLANNING

(Sec. 299E of the bill)

PROBLEM

Though Federal law and policy permit and encourage States to extend services to low income families likely to become welfare recipients as well as families already on welfare, most States have not taken advantage of this opportunity.

The progress which has been made under the 1967 Amendments has not met the committee's expectations. The annual report by the Department of Health, Education, and Welfare covering family planning services includes information which makes clear that the mandate of the Congress that *all* appropriate AFDC recipients be provided family planning services has not been fulfilled.

FINANCE COMMITTEE AMENDMENT

The committee amended the House bill to authorize 100 percent Federal funding for the costs of family planning services. The Committee amendment would also require States to make available on a voluntary and confidential basis such counseling, services, and supplies, directly and/or on a contract basis with family planning organizations throughout the State, to present, former or likely recipients who are of child-bearing age desiring such services. The amendment would also reduce the Federal share of AFDC funds by 2 percent, beginning in fiscal year 1974, if a State in the prior year fails to inform the adults in AFDC families and on workfare of the availability of family planning services and/or if the State fails to actually provide or arrange for such services for persons desiring to receive them.

FAMILY PLANNING SERVICES

(Sec. 299E of the bill)

The committee bill provides for an increase in Federal funding of family planning services for present and former welfare recipients of child-bearing age and also for those persons likely to become recipients in the absence of such services by authorizing 100 percent Federal funding for State family planning programs, including both information counseling and the provision of medical and social services.

The committee believes that its amendment will give impetus to the availability and provision of family planning services in the States. A beginning was made in 1967, when provisions were included in the social security amendments which required that family planning services be offered on a voluntary basis, to all appropriate AFDC recipients, and authorized 75 percent Federal matching funds for this purpose. In addition the same matching was made available to the States on an optional basis for services for former or potential recipients of welfare.

The progress which has been made under the 1967 amendments, however, has not met the committee's expectations. The annual report by the Department of Health, Education, and Welfare covering family planning services includes information which makes clear that the mandate of the Congress that all appropriate AFDC recipients be provided family planning services has not been fulfilled. The report states:

"Many problems, of course, remain. Medical services [family planning] still are too limited, especially in rural areas but frequently in large urban areas as well. Replying to the question whether medical family planning programs currently available are adequate to meet the needs of eligible clients, 36 State welfare agencies answered in the negative in March, 1970. Thirty-one cited geographic inaccessibility as a major problem. Many reported a shortage of health professionals and paraprofessionals and some reported that existing facilities are overcrowded. Even in the Nation's principal counties and cities where clinics are more likely to be found than in less populous sections, 50 out of 106 local welfare agencies reported that currently available medical planning programs are inadequate.

"Looking at their own capability of providing family planning services, many State and local welfare agencies report a shortage of staff to provide services and to arrange for adequate followup. Training programs for staff have not been mounted on the scale required. Although Federal funds may be used to match $3 for every $1 spent from State funds for services, time and again agencies emphasize the difficulty of raising the 25 percent share at State and local levels. Generally, no special funds have been made available to develop family planning services, as indicated, for example, by the general absence of full-time staff leadership for this program. Expectations among some groups that title IV funds would be available to reach substantial numbers of low-income families not currently receiving welfare have not been realized. . . ."

Evidence indicates the situation is not significantly improved today.

The committee is persuaded that the 75 percent Federal matching percentage, although a major step in promoting family planning services, has not been sufficient to achieve the aims of the Congress. By providing 100 percent Federal funding, the committee bill will remove any existing financial barrier to the availability of family planning counseling and services to those desiring those services.

The committee amendment would authorize States to make available on a voluntary and confidential basis family planning counseling, services and supplies, directly and/or on a contract basis with family planning organizations (such as Planned Parenthood clinics and Neighborhood Health Centers) throughout the State, to present, former, or potential recipients including any eligible medically needy individuals who are of child-bearing age and who desire such services.

In addition to the provision of counseling, services and supplies designed to aid those who voluntarily choose not to risk an initial pregnancy, emphasis would be placed upon assisting those families with children who desire to control family size in order to enhance their capacity and ability to seek employment and better meet family needs.

The Secretary would be required to work with the States to assure that particular effort is made in the provision of family planning services to minors (and non-minors) who have never had children but who can be considered to be sexually active; for example, persons who have contracted venereal diseases, etc.

The Secretary would also be required to work with States to assure maximum utilization of persons participating in the Work Incentive Program as family planning aides and to perform related jobs.

In order to assure that States do in fact inform welfare recipients and other eligible persons of the availability of family planning services, and that those who so desire receive the necessary medical and counseling services the amendment would reduce the Federal share of AFDC funds by 2 percent, beginning with calendar year 1974, if a State in the prior year fails to inform at least 95 percent of the adults in AFDC families and on workfare of the availability of family planning services and/or if the State fails to actually provide or arrange for such services for 100 percent of those persons desiirng to receive them.

Because of the difficulties of enforcing or monitoring the mandatory provision of family planning services to former or potential recipients, the penalty provision will be limited to the offering and provision of services to present adult recipients of AFDC and workfare. However, family planning services must be offered and made available on an optional basis to former and potential recipients of child-bearing age.

It is envisioned that individuals of child-bearing age applying for or receiving AFDC would formally acknowledge that they have been informed that they are eligible to receive family planning services on a voluntary and confidential basis. If they desire family planning services, an appointment would be set up at that time and a copy of the form would be sent to the clinic or physician providing necessary services and supplies. This would not preclude "walk-in" requests for family planning assistance by present and former recipients or those likely to become recipients in the absence of such services.

The effectiveness of the program would be monitored by Federal officials on a sample basis. The operation of the program would also be subject to review by the Inspector-General for Health Care Administration.

Although the committee views family planning services as primarily medical services, it also recognizes the importance of counseling and informational services which are more traditionally considered to be social services. Therefore, the Committee amendment makes 100 percent Federal financial support for family planning services available under both the title XIX and the title IV–A programs.

The committee has amended title XIX to provide that family planning services are a mandatory service under all title XIX plans. The committee intends that the 100 percent Federal funding of family planning services through titles XIX and IV–A will reimburse for the reasonable costs of directly related family planning services.

FAMILY PLANNING SERVICES MANDATORY UNDER MEDICAID

SEC. 299E. (a) Section 1903(a) of the Social Security Act, as amended by sections 235 and 249B of this Act, is further amended by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) an amount equal to 90 per centum of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the plan) which are attributable to the offering, arranging, and furnishing (directly or on a contract basis) of family planning services and supplies;".

(b) Section 1905(a)(4) of the Social Security Act is amended by adding after clause (B) the following: "and (C) family planning services and supplies furnished (directly or under arrangements with others) to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies;".

(c) Section 402(a)(15)(B) of such Act is amended, effective January 1, 1973, (1) by adding after "in all appropriate cases" the following: "(including minors who can be considered to be sexually active)", and (2) by adding after "family planning services are offered them" the following: "and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services".

(d) Section 403 of such Act is amended by adding at the end thereof the following new sections:

"(e) Notwithstanding any other provision of subsection (a), with respect to expenditures during any calendar quarter beginning

after December 31, 1972 (as found necessary by the Secretary for the proper and efficient administration of the plan) which are attributable to the offering, arranging, and furnishing, directly or on a contract basis, of family planning services and supplies, the amount payable to any State under this part shall be 90 per centum of such expenditures.

"(f) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1973, be reduced by 1 per centum (calculated without regard to any reduction under section 403(g) of such amount if such State—

"(1) in the immediately preceding fiscal year failed to carry out the provisions of section 402(a)(15)(B) as pertain to requiring the offering and arrangement for provision of family planning services; or

"(2) in the immediately preceding fiscal year (but, in the case of the fiscal year beginning July 1, 1972, only considering the third and fourth quarters thereof), failed to carry out the provisions of section 402(a)(15)(B) of the Social Security Act with respect to any individual who, within such period or periods as the Secretary may prescribe, has been an applicant for or recipient of aid to families with dependent children under the plan of the State approved under this part."

Mr. PACKWOOD. Mr. President, I am happy to say that the new Social and Rehabilitation Service Administrator, Mr. James Dwight, has committed his agency to an amendment to the regulations which would, for family planning services, make the presumption of a child and would make all sexually active women eligible for services regardless of their parental or marital status, and also without regard to the 6-month requirement in the regulations.

I am disappointed, however, that SRS has steadfastly refused to acknowledge or resolve the group eligibility and certification problem as it relates to mobile migrant children. As of today, SRS is ignoring the plight of mobile migrant and Indian children, who would be virtually excluded from any services under the proposed regulations. Frankly, Mr. President, it is beyond my comprehension that SRS cannot find a way to eliminate group eligibility abuses without hurting these most needy children. I could not think of a better example of throwing the baby out with the bathwater. I trust, however, that SRS will continue to study this situation, and come up with a constructive solution to restore group eligibility for Indian and mobile migrant children, particularly for day care and health services.

Mr. President, I reiterate that I do not know how it is possible to read into legislation which took such pains to assure the continued availability of those services which tend to prevent welfare dependency a justification for regulations which will seriously curtail those very services. But this is precisely what will happen next week under the published regulations unless this amendment is adopted. Mr. President, I ask unanimous consent that a brief summary of the import of these regulations in my State of Oregon be printed at this point in the RECORD.

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

OREGON—IMPACT ON ADULT PROGRAMS

PROPOSED CHANGES IN FEDERAL REGULATIONS AFFECTING PROGRAM ACTIVITIES

Information referred

Information and referral services to Non-Welfare recipients no longer identified as a service.

Protective services

Protective Services to Non-Welfare adults. These are individuals who are living in hazardous situations because of economic, health, and emotional problems.

Community planning

Community Planning is no longer a defined service.

Sheltered workshop subsidy program

Sheltered Workshop Subsidy Program includes present, former and potential recipients of Aid to Disabled and Aid to the Blind. All are severely handicapped. There are some doubts as to whether the subsidy sheltered workshop can be funded by Federal Service dollars.

Foster care

Federal service match would not be available to purchase services (above board and room) which are available as a part of overall services supplied to all guests. Payment for services on individual basis will be curtailed and limited by Federal Regulation.

Volunteer services

Private donated funds.

IMPACT ON ADULT SERVICES PUBLIC WELFARE DIVISION

Information referred

Public Welfare has provided information and referral service to those requesting such service. This has amounted to some 20,000 contacts per year and has provided information and/or referral to Federal, state, local and private resources. Such activities has assisted people in solving problems.

Protective services

Approximately 2,000 aged and disabled adults who are not receiving Public Assistance payments annually receive such services. Some 1,000 of these probably have income exceeding the limitation imposed by the Federal Regulations.

Community planning

Public Welfare has provided leadership in community planning and developing community resources which are available not only to Public Welfare clients but to others in the community. Activities are to be focused on Public Welfare recipients. This will result in a loss of community resources and support.

Sheltered workshop subsidy program

94 of 236 enrolled in the program are former or potential recipients. One-third of these exceed income limit contained in new regulations and will be immediately ineligible. Limitations on time during which services can be provided to former and potential recipient will further limit ability to serve the 94 individuals so classified. 236 severely disabled individuals are enrolled in the program. Funding is absolutely essential toward maintaining the individuals in these slots.

Foster care

Services available to all guests in a facility can not be purchased for specific individuals. For example, if facility provides transportation to medical facilities to all guests, agency could not reimburse cost of transportation for individual Public Welfare recipients.

Volunteer services

Limitations on utilization of private donated funds will handicap volunteer services in those instances where such funds were used to provide such services as community resource centers, help lines, etc.

OREGON—IMPACT ON FAMILY PROGRAMS

PROPOSED CHANGES IN FEDERAL REGULATIONS AFFECTING PROGRAM ACTIVITIES

Adoptions: The proposal would eliminate federal support of services for virtually all but the welfare recipient. A child freed for adoption has no family pending adoption because the state is the legal guardian.

Protective services: The proposal would eliminate federal support of services for virtually all but the welfare recipient. Abused or neglected children come from families with high incomes as well as low.

Foster care:

1. A new definition of potential recipient would withdraw Federal support of services provided by CSD staff for children whose families do not qualify for ADC.

IMPACT ON CHILDREN'S SERVICES DIVISION

300 children per year are placed in adoptive homes by 42 workers in adoptive services—under the old regulations.

? children would be placed in adoptive homes by 11 workers in adoption services—under new regulations.

At any time 2325 families with children in need of protection would be receiving services under the old regulations.

1461 of these families would have too much income to qualify for federally supported services under new proposed regulations.

1. 2,054 of 5,039 children per month in foster family care would not qualify for federally supported staff services.

GOVERNOR'S REVISED RECOMMENDATION

The Governor recommends additional general funds to restore three fourths of the base program to support a staff of 31 positions.

The Governor recommends additional general funds to fully support his originally budgeted caseload of 2325 families plus intensive services in their own homes for 300 children transferred from foster care.

Full restoration of foster care services for 4,739 children at an average monthly cost of $108.91 was recommended by the Governor.

PROPOSED CHANGES IN FEDERAL REGULATIONS AFFECTING PROGRAM ACTIVITIES—continued	IMPACT ON CHILDREN'S SERVICES DIVISION—continued	GOVERNOR'S REVISED RECOMMENDATION—cont.
2. Federal service match would not be available for services (in addition to room and board) that are provided by the foster home.	2. Under the old regulations 5,039 children would be served at an average monthly cost of $108.91. Proposed regulations could hit hard at the pocketbook of foster parents. In order to care for 5,039 children the average monthly payment would have to be reduced to $100.55.	
Juvenile parole services (for children committed to juvenile training schools): The restrictive definition of potential welfare recipients and the virtual elimination of all but the very poor from eligibility for federally supported services. Children in conflict with the law also come from families of all income levels.	1,440 children would be served by a staff of 44 under the old regulations. 1,440 children would still require services but the new regulations would eliminate Federal support for 31 of these positions.	The Governor recommends maintaining juvenile parole staffing at 44 positions.
Purchase of care from private child caring agencies: 1. The restrictive definition of potential welfare recipients. 2. The elimination of federal support of services provided by the facility in which the child is placed.	Under the old regulations: At an average monthly cost of $664.80, 901 children with emotional problems or with a history of conflict with the law would have been cared for in private residential facilities. Under the proposed regulations: At an average monthly cost of $644.80 care could be purchased for only 527 children. Federal support would be withdrawn from 15 of 24 CSD administrative staff assigned to work with the private agencies, children and their families.	Full restoration of funding to originally budgeted levels is recommended in order to provide services for 901 children at an average cost of $644.80 per month.
Child study and treatment (treatment programs for seriously disturbed children): 1. Proposed regulations prohibit federal social service support for medical or mental health programs. 2. The restrictive definition of potential welfare recipients. 3. The elimination of federal support of services provided by the facility in which the child is placed.	164 children would be placed in day treatment facilities at an average monthly cost of $525.57 with federal support under the old regulations. 59 could receive day treatment at the same cost under the proposed regulations. 51 children could receive residential treatment with federal support under the old regulations at an average monthly cost of $794.31. 20 would receive treatment under the proposed regulations at the same cost. An administrative staff of 30 would have provided program and individual treatment consultation under the old regulations. Proposed regulations would remove federal support for 13 of that staff.	The Governor recommends additional general funds to serve an average daily population of 164 children in day treatment facilities and 51 children in residential treatment. He also recommends restoration of the administrative staff to 30.
Licensing and certification: No federal funds would be available for the issuance of licenses or the enforcement of standards for foster homes or other child caring facilities.	A staff of 110 persons is needed to recruit, license and certify day care facilities, private agencies and foster homes. The proposed regulations would withdraw federal support for 58 of these positions.	The Governor recommends restoration of all but 12 of the 110 positions in his original budget.
Work study camps for children committed to juvenile training schools: No federal funds would be available for maintenance items even when they are part of a comprehensive program.	Of 24 staff positions in the two work study camps federal support would be withdrawn from 2 positions.	Restoration of two staff positions is recommended.
4–C day care for potential welfare recipients: 1. The restrictive definitions of potential recipients eliminates all but the very poor from eligibility. 2. January 1, 1974 elimination of group determination of eligibility. Residents of low income neighborhoods such as Model Cities or housing projects would no longer be automatically eligible for service.	An estimated 5330 children of employed-low income families would have been in 4–C day care under the old regulations. 906 children (17%) would be ineligible for federally supported day care under the new regulations and the parents of 1599 children would be required to assume part of the cost of day care.	The Governor recommends the use of general funds to be matched by local funds to continue day care services for those children who will lose eligibility under the new regulations.
Job Related Training—a new program (for certain young adults not eligible for other training programs): More restrictive definitions of persons eligible for services.	Under the old regulations CSD planned to train 350 persons. The new regulations would eliminate all federal support from this program.	The Governor did not recommend restoration of this program.
Scholarship (a self-help program begun by the County ADC Association): 1. Federal support would not be available for employment related services for persons eligible for the Work Incentive Program (WIN). 2. Educational expenses (books, tuition, etc.) paid by the agency would not be eligible for federal support.	At any time 165 members of ADC families would have been receiving vocational training or further education—under the old regulations. The proposed regulations would eliminate all federal support for this program.	The Governor did not recommend restoration of the ADC Scholarship program.
The Aide program: Aides function as support staff for programs and are affected proportionately by all of the proposed regulations affecting other programs.	All aides are recruited from the welfare rolls. 197 aides would have been employed under the old regulations. The proposed regulations would reduce that number to 120.	The Governor recommends restoration of all but 15 of the Aide positions.

Mr. PACKWOOD. Mr. President, the 6-month delay in the implementation of the new regulations is, therefore, essential if we are to avoid seeing the social services program stripped of one of its most important objectives, that of preventing the need for many people to go on welfare in the first place. This objective has been an important part of Congressional social services policy since at least 1962; it was strongly emphasized in 1967; and it was not repudiated but rather reaffirmed in last year's revenue-sharing bill.

A 6-month delay in the implementation of the regulations is, of course, only an expedient and not a solution. I am currently in the process of drafting new legislation which would provide crystal clear directions to HEW, and which would have the purpose of continuing services to those most in need, and those who will only remain self-sufficient with the help of social services. Additionally, I intend to work closely with other Senators who share my concern to come up with the most satisfactory and equitable proposal, giving maximum discretion to the States to determine priorities and provide services.

It will probably be necessary to spell out our intent in great detail, and this obviously cannot be done by July 1. The 6-month delay provided for in the Finance Committee amendment will prevent the damage which would be done by the immediate implementation of the new HEW regulations and will give the Congress time to enact a more complete and satisfactory answer to the issues involved.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, I yield myself such time as I may require.

Mr. President, we are talking now about interfering in the middle of the preparation of the regulations to operate the program, and forcing them to hang in abeyance for 6 months more.

The regulations were revised after the enactment of title III of the Revenue Sharing Act in October 1972, and it has taken this much time for the Department to study that act and prepare the regulations which now reflect the Department's interpretation of the congressional intent. The purpose of the program and later amendments to it was to assist individuals on welfare to become self-supporting, and to prevent those with incomes near the subsistence level from becoming dependent.

Further delay in implementation would cause greater uncertainty in the program, because the States will not be able to plan until after Congress acts on what it wants included under the new regulations.

This bill would allow an increase of $300 million over the budget outlays for fiscal 1974. State expenditure estimates under the old regulations were approximately $2.1 billion; outlays under the President's fiscal year 1974 budget were projected at $1.8 billion.

Congress has asked that HEW provide better monitoring of the services programs, especially those provided under purchase arrangements with other agencies. This will not be possible if we continue to postpone the implementation of the regulations.

It sounds easy. This just leaves the status quo as it was for another 6 months. Actually, it will leave the whole situation in a status of uncertainty. The States will not know what to do with their programs, and the Department, forced to end its consideration of regulations, will also be thrown off balance.

I do not think this is the way to go about increasing these expenditures by $300 million. I think it is wasteful of the energy that has been devoted to the job, and would just, as I say, magnify the uncertainty.

So I hope the Senate will reject this proposal.

Mr. LONG. Mr. President, last year we estimated that this program of social services was going to cost $4.7 billion this year, if we did not do something about it. So we voted, and we led the fight here in the Senate, and the country can thank the Senate that we cut this program back from $4.7 bllion down to $2.5 billion. We cut the program practically in half.

We led the States to believe that they could depend on receiving their share of the $2.5 billion, allocated on a strict per capita basis.

The States have indicated that they would be willing to take that cutback under what they were anticipating, provided they could have the $2.5 billion. But, no, the Secretary of Health, Education, and Welfare comes out with regulations to cut that in half again.

Let me show you how ridiculous those regulations are. We have tried to make family planning services more widely available. Nothing would save more money on welfare than to prevent unwanted pregnancies of young women who are not married. But under these regulations, the young woman has to be 3 months pregnant before they can help her with family planning information. How ridiculous can you get?

Then we thought there ought to be a program for active treatment of alcoholics and drug addicts. Yet HEW says, under these social services regulations, that medical treatment for alcoholism and drug addiction cannot be provided; so the regulation defeats its own purpose.

I could give many examples of that sort. I point out that there is not a welfare director or a governor in any State, to my knowledge, who has supported these regulations. Furthermore, it is, in my judgment, completely in bad faith with the States to lead them to believe that they are entitled to have their share of $2½ billion, and then cut that in half.

One welfare director told me that he met with some HEW employee and, having looked at one aspect of the social services regulations said to him:

There is not one welfare department in the United States that can comply with that regulation.

The HEW employee said:

That is right; nobody can comply with it. But if anybody can comply, the money is there.

That is the kind of regulation we do not need. It simply frustrates the program. These regulations have been severely criticized on television and in other news media throughout the entire country. They are completely contrary to the intent of Congress that the States shall have an opportunity to use their share of $2.5 billion, to spend it for the benefit of poor and low-income people, to keep them off welfare. But we find that these regulations make it very difficult if not impossible for the States to use these funds.

The regulations do not have the support of a single State among the entire 50, so far as I can determine.

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

The yeas and nays were ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced:

The House of Representatives having proceeded to reconsider the bill (H.R. 7447) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was,

Resolved, That the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

CONTINUATION OF EXISTING TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of the bill (H.R. 8410) to continue the existing temporary increase in the public debt limit through November 30, 1973, and for other purposes.

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

Mr. FANNIN. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. CURTIS. I yield.

Mr. FANNIN. Mr. President, I ask unanimous consent that Mr. George Pritts be granted the privilege of the floor during the discussion and votes on the bill and the amendments.

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

Mr. CURTIS. Mr. President, I shall support the amendment. My primary concern in doing so relates to the mentally retarded and mentally handicapped.

There is no question that we have too much social legislation. There is no question that the great increase in Government expenditures has to do with social programs. In almost every other category, individuals and their families do have a measure of responsibility for the conditions they face. Individuals born with mental handicaps are in a different category. They are unable to help themselves and are unable to speak out for themselves in most things.

Prior to recent legislation, many

States—I do not know; perhaps all of them—had programs for the mentally retarded that operated without a needs test. That is correct. Mental retardation strikes across the board and has little, if any, connection between poverty and unemployment, although perhaps there may be some.

The distinguished chairman of the committee, Mr. LONG, has told about a controversy that arose from this social service section in general, and how Congress ended up by placing a ceiling of $2.5 billion on it. At the time that was done, it was clearly understood that the program for the mentally retarded would not be attached to the welfare program. In other words, no needs test would be provided. That was the understanding of those of us on the committee who were involved in the question. That was the understanding of the very worthwhile organizations which carry on good work in behalf of the mentally retarded.

I took the language proposed and transmitted it to my State, and they replied that it would enable them to carry on their full program for the mentally retarded, not on the basis of need. That was the general understanding.

Now we are faced with this problem that, beginning the first of July, new Government regulations will go into effect with respect to the mentally retarded. Those new regulations will be in violation of the intent of Congress, because they will not, in effect, provide a needs test for social services to the mentally retarded.

That should not be.

We are spending too much money around here, but we are not spending too much money on those individuals who cannot help themselves at all—and the mentally retarded are in that category.

For that reason, Mr. President, I shall vote that these regulations do not go into effect for the remainder of this year in the meantime.

I hope that a settlement can be arrived at, or that Congress can take other action to see to it that the program for the mentally retarded is carried forward as we all understood it would be at the time the previous legislation was enacted.

Mr. HANSEN. Mr. President, will the Senator from Nebraska yield me some time?

Mr. CURTIS. Mr. President, I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER (Mr. DOMENICI). The Senator from Wyoming is recognized for 5 minutes.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Nebraska for yielding his time to me.

I am certain that, like many members of this body, I am torn between what my conscience, what my compassion tells me to do on the one hand and what the hard realities of fiscal responsibility urge that I should do on the other.

There is no question that the weight of the burden of inflation has fallen heavily on the shoulders of those to whom these amendments are addressed this afternoon. For that reason, I felt that I should like to explain, if I may, why I am voting as I do.

This Congress—both Houses—is on record as having indicated that there should be an overall spending limitation. We do not agree as to how that limitation should be enforced, but we do agree that there should be an overall spending limitation. We can certainly agree, too, that the rampaging rate of inflation has greatly exceeded what many people thought it would be a year ago when we approved the 20-percent increase in social security and provided at the same time that further increases would become automatic starting on January 1, 1975.

Mr. President, my dilemma arises from the fact that I, too, would like to do the things that compassion dictates should be done. I think that what has been said by the distinguished Senator from Nebraska (Mr. CURTIS) makes good sense. Few people, indeed—very few—could argue against it; yet, if we do not raise taxes and if we do not curtail spending, then we are going to add to the inflationary pressures. It is just that simple.

I do not know what we might do. There are, of course, a few options we can take, but I doubt very much that we will raise taxes and I have very little confidence that we will keep under the spending limitation.

Yet I suspect a great many of us on this floor today will criticize the President when he finds it necessary to impound funds in order to keep within the kind of budget expenditure he believes will carry out the announced intentions of the Congress.

These are not happy issues to have to face. I wish that I could join with those who are saying, "We will pay the poor people more. We will take care of the old, the blind, and the disabled. We will see that the mentally retarded are properly cared for."

I merely want to say that in voting as I have, I do not mean to imply that I am not conscious of the crying need that has not been answered on the part of Government to these people; yet I would hope that we would have the courage, the wisdom, and the good judgment, indeed, to take those actions necessary in order to close the gap between what Government takes in on the one hand and what it spends on the other.

Failing that, we will add greater momentum to the inflationary forces that seem incapable of being halted or slowed down now.

I thank my distinguished colleague from Nebraska once more for yielding me this time.

Mr. JAVITS. Mr. President, on March 14, 1973, Senator MONDALE and I, joined by 41 cosponsors of both parties, introduced S. 1220, a bill to place restrictions on the Secretary of Health, Education, and Welfare imposing the regulations on the availability and use of Federal funds authorized for social services under the Social Security Act. We were joined by the following cosponsors: Mr. ABOUREZK, Mr. BAYH, Mr. BIDEN, Mr. BROCK, Mr. BROOKE, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. COOK, Mr. CRANSTON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, and Mr. WILLIAMS.

The bill was designed to safeguard the following elements of the existing approach to social services which were threatened by regulations proposed by the Secretary of Health, Education, and Welfare, which the administration had intended to make effective April 1; programs affected include day care, aid to the elderly, programs to deal with mental retardation, alcoholism, juvenile delinquency, and other social services under titles IVA and XVI of the Social Security Act.

First, the State's existing authority to define eligible recipients including past and potential.

Second, use of privately contributed funds and in-kind contributions as part of the State's matching share.

Third, existing standards for day care.

Fourth, authority to provide drug and alcohol treatment programs, education and training services, and other comprehensive programs for children, the elderly or disabled.

Fifth, reasonable reporting requirements.

As a result of our initiatives and other objections to the proposed regulations the administration sought to revise those requirements and announced a number of postponements of the effective date, the latest of which is July 1, 1973.

The Senate Committee on Finance has undertaken a thorough examination of the regulations and now apparently agrees with us that the Secretary should not be permitted to implement them in the near future.

To that end, the Finance Committee ordered reported as an amendment to H.R. 8410, the debt ceiling bill, now being considered on the floor, a provision delaying the effective date of the regulations until January 1, 1974. The committee's announcement states that—

> This delay will permit the Congress time to deal with the substantive issues associated with social services and to approve legislation as appropriate.

As I indicated when S. 1220 was introduced, the approach of the administration would tend toward increasing the welfare rolls—contrary to their general intent—and would add "insult to injury" for States like New York, where social services efforts are already severely damaged by the $2.5 billion ceiling on social services and the formula for distribution has greatly prejudiced the large industrial States—the very States that have shown the greatest interest and competency in providing social services.

I commend and support the committee action and ask the Senate to approve it and look forward to working with the Finance Committee in future efforts to-

ward legislation, both to deal with the issues raised by the regulations and with the ceiling and the distribution formula thereunder.

I ask unanimous consent that there be printed in the RECORD at this point, an excerpt from the CONGRESSIONAL RECORD of March 14, 1973, stating my position in regard to S. 1220 and the letter of Jule M. Sugarman, administrator of the human resources administration of New York City:

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

EXCERPT FROM THE CONGRESSIONAL RECORD OF MARCH 14, 1973

Mr. JAVITS. Mr. President, I am pleased to join with Senator WALTER MONDALE, Democrat, of Minnesota, in S. 1220, a bill to bar restrictions by the Secretary of Health, Education, and Welfare imposed by regulations on the availability and use of Federal funds authorized for social services under the Social Security Act. We are joined by a bipartisan group of 41 Senators including the following members of the minority: Senators BROOKE, CASE, COOK, HATFIELD, MATHIAS, PACKWOOD, PERCY, SCHWEIKER, and STAFFORD.

The bill would safeguard the following elements of the existing approach to social services which are threatened by regulations proposed by the Secretary of Health, Education, and Welfare, which the administration intends to make effective April 1; programs affected include day care, aid to the elderly, programs to deal with mental retardation, alcoholism, juvenile delinquency, and other social services under titles IV–A and XVI of the Social Security Act.

First, giving States existing authority to define eligible recipients including past and potential.

A key aspect of the current program is that States and localities are free to provide child care and family services to former and potential welfare clients. Under present law, as a general matter, services may be provided to persons who have been on welfare during the past 2 years and persons who could be on welfare within the following 5 years.

Under the new proposal, a 5-month limitation would pertain with respect to former recipients and a 3-month limitation for potential recipients. Additionally, eligibility cutoffs would be revised so that in New York City; for example, a family of four earning just above $5,400 would not be eligible for day care.

The administrator of the Human Resources Administration of New York City, Jule M. Sugarman, has advised me by letter dated March 7, 1973, that if the regulations are implemented, about 50 percent of the current families enrolled in the child care programs would be ineligible; at the present time there are approximately 368 centers in New York City with a capacity for 26,289 children.

These restrictive elements, if implemented, will impact all of the social services programs, not just to day care. Mr. Sugarman's letter notes:

"We are already considering whether we should not move our Senior Citizen Center program out of Title XVI coverage to spare the elderly the necessity of documenting their near indigency to gain program eligibility."

Mr. President, it is clear that if implemented these regulations will have an effect exactly the opposite of that intended by the Congress for the social services program under the Social Security Act. For example, in day care, it will mean that once the mother works her way off of welfare, she will become ineligible for child care and thus fall back into the welfare category.

Nothing could be more counterproductive or repugnant to the purposes of the law or inimical to the Administration's own concern with the "working poor" than that.

Second, use of privately contributed funds and in-kind contributions as part of the State's matching share.

Under the proposed regulations, the administration proposes to eliminate private contributions which currently may be counted as a part of the State's or locality's 25-percent matching funds.

This will sound the death-knell for many programs throughout New York State and the Nation which find sources of life in the contributions of philanthropic organizations, United Fund, and similar sources; I am advised that in New York City alone one such private organization has provided as much as one half a million dollars to social services.

Moreover, this proposal should be considered inconsistent with the administration's own emphasis on volunteerism and economy in government since the matching requirement acts as an incentive for funding from the private sector and thus achieves a "multiplier effect" in terms of Federal expenditures.

Third, existing standards for day care.

The proposed regulations eliminate existing requirements with respect to the quality of child care made available under the Social Security Act.

Under the new regulations, there is every risk that programs would become purely "custodial"—that is, lacking in educational, nutritional, and other components that are so key to human development.

Again, nothing could be more counterproductive in terms of the purposes of the Social Security Act since programs without these essential elements can only act to perpetuate the cycle of poverty for a new generation.

It should be noted also that elimination of standards for day care is inconsistent with the law recently enacted by the Congress. The Economic Opportunity Act Amendments of 1972 specifically provided, in section 19 for the application of the Federal interagency day care requirements to all child care programs funded by the Federal Government and the President signed that law on September 19, 1972.

Fourth, authority to provide drug and alcohol treatment programs, education and training services, and other comprehensive programs for children, the elderly or disabled.

Under the new regulations, programs for the rehabilitation of alcoholics and drug addicts are not even eligible activities; in New York City, this will mean the eliminaton of Federal fundng for programs under which 25,000 addicts—5 to 10 percent of the 300,000 to 500,000 in New York City alone—are now being given treatment.

Moreover, there is no mandate in the proposed regulations for the use of subprofessional personnel in service delivery and training and educational leaves—as under previous law.

Fifth, reasonable reporting requirements.

Under the new regulations, States and cities would be required to determine eligibility of each recipient on a quarterly basis; under present law, eligibility must now be determined only once a year and more often only if the State deems necessary.

I support efforts to assure administrative efficiency in carrying out programs but I believe that the proposed regulations impose an element of red tape that can only serve to make the program almost unworkable.

For these five reasons, we propose this amendment to the Social Security Act in the belief that the regulations proposed by the Secretary remain contrary to the general purposes of the Social Security Act, which is to get people off the welfare rolls. Limiting eligibility to persons on welfare, cutting off private funds, permitting custodial child care, eliminating drug and alcohol treatment programs, and cutting efforts for paraprofessionals and related services can only serve to increase the welfare rolls.

Mr. President, just last December, despite my efforts to seek relief, the Congress imposed a $2.5 billion ceiling on social services throughout the Nation and established a formula for distribution which greatly prejudiced industral States like New York—indeed the very States that have shown the greatest interests and competency in providing social services.

For this fiscal year, that ceiling has meant that approximately $200 million is available in Federal matching funds for New York State in contrast to the State's original request for and ability to use effectively $800.0 million.

Mr. President, I hope very much that in light of the substantial bipartisan support for our proposal evidenced by cosponsorship for this measure that, the Secretary of Health, Education, and Welfare will reconsider these regulations and abandon them. If there are further reforms that need to be made in the law, we will be pleased to work with the executive branch in developing them, but we do not wish to permit these regulations to be implemented without regard to legislative intent or involvement.

I ask unanimous consent that at this time there be printed in the Record a copy of the letter from Jule M. Sugarman, administrator of the Human Resources Commission in New York City to me dated March 7, 1973 and an article and an editorial from the New York Times of March 7, 1973.

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

1,000 PROTEST FEDERAL PLAN TO CUT DAY-CARE SERVICE

About 1,000 demonstrators, many of them mothers who brought their children, yesterday protested proposed Federal regulations that would end day-care and other social services for many present recipients.

Carrying signs and chanting "We want day care," the protesters marched for about three hours outside 26 Federal Plaza, where the Federal Department of Health, Education and Welfare has offices.

Last month the department proposed terminating Federal support for social services to working mothers who earn salaries more than one-third higher than their state's official poverty level.

In New York State, as many as half the 34,000 working mothers now using centers for their children would be about the $5,400 maximum that would result if the proposals were implemented.

Many mothers said they would have to go on welfare if their day-care services were terminated. Others praised the centers, where children are taken care of while parents work, as "life-savers."

CARING FOR CHILDREN

Working mothers in this and other cities have been expressing concern about the proposed changes in the Federal guidelines which might render their children ineligible for low-cost day care. Unless states and cities make up for the reduction in Federal support, many mothers whose earnings are above the poverty level but too modest to permit expensive unsubsidized private child care would be forced to withdraw their children from any existing centers. In New York the cut-off point would come at an income of $5,400.

The controversy once again puts the spotlight on the important social issues raised by the sponsors of last year's child develop-

ment legislation. The measure, vetoed by the President, recognized that day care is not as Mr. Nixon seems to believe, a mere handout for welfare mothers. It is rather an effective device to allow working mothers of limited means to divide their attention between job and home without neglecting their children.

The ultimate effect of a rigid interpretation of financial need in determining eligibility for free or low-fee child care will be to increase the welfare rolls. It would simply become economically impossible for many women to work and still feel confident that their children are well taken care of at the same time. Such a regressive policy clashes head-on not only with compassionate social doctrine but also with the President's own repeated insistence that people help themselves first in order to be eligible for government aid.

But the mistaken view that day care is only for children of poverty is dangerous for another reason. The strength of the best of the existing day care centers is that they attract a mix of children from a relatively wide range of home backgrounds. If integration—socio-economic as well as racial—is truly to remain the country's goal, the time to begin is when the children are still too young to have been inoculated with the virus of society's suspicions and hostilities.

When President Nixon vetoed the Child Development Act, he said he considered the measure a threat to the American family. The present situation, in addition to increasing the welfare rolls, is a threat to American childhood.

THE CITY OF NEW YORK,
March 7, 1973.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I appreciate the opportunity afforded to me by your request that I describe the effect that the proposed Title IV–A and XVI HEW Regulations would have on provision of social services to the families and children, disabled, aged and the blind, residing in New York City.

Following are some thoughts on how the proposed changes will affect social programs and the people who benefit from them.

The regulations as proposed, do not provide for recipients of service to be part of advisory committees; although provision is made for a Day Care advisory capacity, it is only on State level. This is contrary to the direction we have taken to enable the citizens of New York City who are users of service, to advise on program content which is most desirable in terms of meeting needs. Placement of advisory function at the State level for Day Care, effectively presents parental-local participation in shaping programs designed for their children.

By eliminating the provision for fair hearings and substituting a "grievance" provision, the new regulations dilute the concept of accountability of the local and state bureaucratic administrative structure in that they permit for a complaint to be made but do not provide for a method of orderly and objectively responsive resolution. Furthermore, the lack of provision for fair hearings is in violation of the Social Security Act provisions as stated in Title IV–A, Section 402 (a) (4) and Section 406(b).

There is no mandate in the proposed regulations for the use of subprofessional personnel in service delivery. This is contrary to provision of the Social Security Act (as amended), which specifies in Title IV–A, Section 402(a) (5) (B):

"The training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency."

Although this proposed deletion in effect will not change the City's policy in providing entry level opportunities in the service area for people with less than college degrees, it opens up the possibility that the State no longer need go along with the City policy since this is no longer mandated under Federal regulations. Entry level social service jobs have been one of the ways we have provided employment opportunities for current assistance recipients.

There is no mandatory provision for staff development and training and educational leave. The absence of this provision eliminates one of the major programs which had been available to us for the purpose of upgrading skills of our current staff. At a time when maximum staff skills will be needed to produce maximum effectiveness as specified in the proposed regulations, reimbursement for staff development through educational leave is being eliminated.

Mandatory services have been limited to three: Family Planning, Foster Care for Children and Protective Services for Children. This gives the State the option not to approve Preventive Services for Children. This would seriously affect our capacity to exert maximum efforts to forestall and/or prevent placement which is, both socially and fiscally, the most expensive type of care. The failure to mandate services of preventive nature would also appear to be contrary to the intent of the 1967 Amendments which were designed to prevent dependency and promote independence.

The intent of the proposed regulations regarding Day Care seems patently clear: to halt program enrichment and nutrition for those enrolled in group day care programs. Where the current regulations *require* that services be provided to meet the education, emotional social and physical needs of children and their families, the proposed regulations do not speak to those concerns.

The most telling blow however, is the restrictive provision for eligibility. Under the proposed provisions a New York City family of four earning just about $5400, would not be eligible for day care at Federal rate of reimbursement. Approximately 50% of current families enrolled in our program would be ineligible and we would be facing the intolerable decision of having to deny day care services to those famililes or adding the fiscal burden of the non-reimbursable portion of the program to the heavily encumbered resources of the City and the State. And even that intolerable solution is contingent upon the willingness of the State to share the burden with us.

The restrictive eligibility provisions if implemented, will impact all of the social service programs in addition to day care. We are already considering whether we should not move our Senior Citizen Center program out of Title XVI coverage to spare the elderly the necessity of documenting their near indigence to gain program eligibility. At issue is whether the State will participate with us on an equal cost sharing basis to help stave off the humiliation for the elderly and the destruction of our carefully developed senior citizen program.

Besides being restrictive, the eligibility provisions present an administrative complexity which will need a computer based system to operate. Even though our Medicaid levels are within the 133⅓% provision of the State public assistance level, a Medicaid eligibility would not qualify as eligibility for service since the resources permitted have to be at a Public Assistance level. In effect that would mean, for example, that a working family of four earning $5372 per year who had savings of $100, could not qualify for Day Care under Title IV–A. This might, contrary to intent and desire on the part of HEW, contribute to helping keep single parent working families on assistance. It can be stated that the net effect of the proposed eligibility criteria which limit the definition of former to three months and potential to six months is to provide service virtually exclusively to current recipients, and to move away from the legislative intent of providing supports to those who have become independent or are in danger of becoming dependent.

Although I applaud the goal-oriented and time directed thrust regarding service plans, I regret that the proposed regulations specify that service plans for potential recipients can include only services that deal with problems that can lead to financial dependence. That type of emphasis would seem to engage our ability to provide child care education, home arts education and other such services to families whose lives and whose children's future might benefit from this type of service.

Sincerely,

JULE M. SUGARMAN,
Administrator.

THE CITY OF NEW YORK,
HUMAN RESOURCES ADMINISTRATION,
New York, N.Y., June 26, 1973.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I appreciate the opportunity afforded to me by your request that I present my views on the Social Services Amendment attached to the Public Debt Bill (HR 8410), which would postpone the commencement of HEW regulations under Titles I, IV, X, XIV, and XVI of the Social Security Act, from July 1, 1973, until January 1, 1974. I have on numerous occasions expressed my concern regarding both the proposed and final versions of the regulations issued by HEW on February 16, 1973, and May 1, 1973, respectively. I have shared with you my assessment of the impact of the proposed regulations on New York City in my letter of March 7, 1973, and have testified before the Committee on Finance, United States Senate, on May 16, 1973 regarding these same issues.

The HEW regulations are, I believe, another in the series of moves to promote fiscal savings at the expense of low-income working people. As such, they go well beyond the intent of Congress, which was to provide social services to the working poor, thereby preventing their dependence, at points of crisis, on public welfare payments. I agree that there is a need to limit social services expenditures. However, various analyses have demonstrated that the regulations as promulgated by HEW, would result in so limiting social services expenditures as to bring them below the $2.5 billion level authorized by Congress.

I am encouraged by the decision of the Senate Finance Committee to take affirmative action in postponing the regulations, thereby offering Congress ample time to deliberate on viable social services legislation, which will be broad enough to allow and encourage low-income working persons to utilize day care, family planning and other services which they need to stay off of welfare rolls. As you may recall, HEW's eligibility requirements are such that they discourage participation by the potential service population. Potential recipients are unable to retain even minimal cash resources, unless these are exempt by individual States in the States regulations governing financial assistance programs. In New York State, any potential recipient with ten dollars in a savings account will be barred from day care, and other services, as HEW's regulations tie

his resources eligibility to the eligibility requirements for public assistance clients.

In addition, the issuance of HEW's regulations has resulted in a de-emphasis of programs for the aged, disabled and blind populations. This de-emphasis is quite alarming when considering that service programs for the aged, disabled and blind can be effective in preventing costly institutionalized care. I feel it important to advise that the cost of institutional nursing homes in New York City, has skyrocketed to nearly $400 per week, while services which could prevent such placement can be provided at a much lesser financial, and most important social cost.

In preparation for my testimony before the Senate Finance Committee, I had reviewed the Congressional Record of Thursday, October 12, 1972 and Friday, October 13, 1972. I also had reread the Conference Report, No. 92–1450 which accompanied HR 14370 (State Local Fiscal Assistance Act of 1972) and Senate Report, No. 92–1050 (Part 1), prepared by the United States Senate Committee on Finance in reference to the Revenue Sharing Act of 1972. None of these documents suggested any legislative intent to alter substantively, the authority of each state to request what that state considers to be an equitable, efficient and effective definition of eligibility for services. Nowhere was there the suggestion that group eligibility should be eliminated. Rather, the thrust of the legislative intent appeared to be provision to limit the explosion of cost and to tighten program review to assure regulatory compliance and local maintenance of effort.

The regulatory removal of group eligibility, when combined with the 90/10 provision of the State Local Fiscal Act of 1972, virtually eliminates our capacity to serve the non-welfare elderly poor population. The latter, of course, is a matter of redress by Congressional action, so that states can use their own judgment to provide services to those aged in need even if they refuse to avail themselves of the right to public assistance supplementation of their social security income. In relation to this we are encouraged by HR 8641 introduced on June 13, 1973 by Congressman Heinz and other similar bills which would remove the 90/10 provision.

However, even if the 90/10 restriction is eliminated by legislative action, the HEW regulations will continue to affect our ability to provide services to many in need, such as the aged. We estimate that of the 46,000 aged currently using our senior citizen centers, nearly 60% or 27,600 will be ineligible for Federal financial participation if the 90/10 provision and the regulations effective July 1, 1973 continue in effect. Under existing regulations, poor senior citizens are able to utilize our centers and receive a hot meal without submitting to an individual means test under provisions for group eligibility determination. HEW's regulations, effective July 1, 1973, eliminating group eligibility, will affect many elderly who will prefer to remain isolated and improperly nourished rather than face a means test for service.

In addition, New York City will face enormous fiscal burdens in serving our day care and other family services populations, as potential service clients with minimal cash resources will no longer be eligible for Federal financial participation. New York City is currently serving some 34,000 children in our day care program, of which 14,600 are on AFDC. Although 75% of all day care users are eligible under the 233⅓% payment level, there is no way of ascertaining how many of these 25,000 clients have cash resources, and are consequently ineligible. One can assume that most working families retain minimal savings accounts for "rainy days." Should these familes be honest and declare their resources, New York City will not be able to claim Federal reimbursement for their day care services.

A similiar problem exists in our family planning programs, where we estimate that some 6,600 persons are no longer eligible for service under the 150% payment level. This figure will also increase as potential clients declare their resources and become ineligible.

It should also be noted that HEW's regulations no longer allow Federal financial participation for subsistence and medical care costs when provided as essential components of a comprehensive service program of a facility. Under existing regulations, the costs of providing meals to children in day care centers is reimbursable by the Federal government. Since this provision has been removed by HEW regulation, we estimate that New York City will incur costs of an additional $5 million to maintain the current program level. I want to underscore the critical importance of providing adequate nutrition for children so that they have the physical stamina for school and, later on in life, for work.

Lastly, the mandate to redetermine the eligibilty of the current service caseload within three months of July 1, 1973 will increase our costs an additional $1.8 million and necessitate a virtual cessation of service delivery during the interim.

I cannot stress too strongly the need for deliberate review of social service needs in this nation. I therefore strongly urge your support for the proposed amendment which will postpone the effective date of the regulations and permit time for viable and equitable legislation.

Sincerely,

JULE M. SUGARMAN, *Administrator.*

Mr. SCHWEIKER. Mr. President, I rise in support of H.R. 8410, the bill to continue the existing temporary increase in the public debt limit through November 30, 1973.

One of the key provisions of this bill is section 230, which would retain the existing social services program regulations of the Department of Health, Education, and Welfare until January 1, 1974. I am wholeheartedly in favor of this 6-month moratorium on any changes by the Department in these regulations. As one of those Senators who has joined in protesting these regulations of HEW, and as a cosponsor of S. 1220, the bill introduced by the Senator from Minnesota, (Mr. MONDALE), I feel that the Committee on Finance needs until the end of this calendar year to fashion its own social services legislation to supplant these proposed HEW regulations.

As the distinguished chairman of the Committee on Finance, the Senator from Louisiana (Mr. LONG), pointed out in his statement on the floor yesterday, one of the serious errors made by HEW in its regulations relates to legal services. In the initial draft of the new HEW social services regulations, no provision at all was made to continue legal services with these social services funds.

Pennsylvania would have been one of the principal States affected by this outright ban on further use of social services funds for legal services. As I pointed out in my letter of March 16, 1973, to Secretary Weinberger, Pennsylvania currently receives $2.4 million of the $4 million spent nationally under the social services program for legal services to the poor.

When the revised HEW regulations were published May 1, 1973, legal services were restored as a permissible use of social services funds by the States, but only those legal services involving "legal problems of eligible individuals to the extent necessary to obtain or retain employment."

This limit on the scope of legal services is so narrow that it will be tantamount to an outright bar of any funds for legal services. Pennsylvania's program, the most ambitious such program in the Nation, would be practically put out of business because it simply is not feasible to continue to operate the program on such a narrow, restricted basis. In Pennsylvania, social services funds are being used in two ways for legal services. One way is as a supplement to the budgets of legal services agencies that are also receiving funds from the Office of Economic Opportunity. The other way is to finance programs in rural counties that do not receive any OEO funds. These latter programs, seven in number, serving 15 rural counties, would collapse altogether without continued use of HEW social services funds.

Mr. President, I intend to pursue this matter further with the Committee on Finance as it uses the balance of this year to write its own legislation to override the HEW social services regulations. I am glad that in the pending bill, H.R. 8410, the committee has taken the first step by providing a 6-month freeze on the implementation of these regulations by HEW.

Mr. President, I ask unanimous consent that my letter to Secretary Weinberger dated March 16, 1973, be included in the RECORD at this point, followed by a statement submitted to the Committee on Finance by the Pennsylvania Legal Services Center dealing with the need for legislation to guarantee the continued existence of legal services under the social services program.

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

MARCH 16, 1973.

HON. CASPAR W. WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I am writing to express my deep concern with the proposed regulations your Department has issued for the Social Services program, removing legal services programs from eligibility for Social Services matching funds.

This policy change will affect my state, Pennsylvania, more acutely than any other. Of the $4 million in Social Services matching funds used nationwide for legal services programs, $2.4 million goes to legal services programs in Pennsylvania alone.

Pennsylvania, since 1968, has taken a vigorous lead in making use of these matching funds for legal services programs. These funds have been used in Pennsylvania to supplement the operations of existing OEO-funded legal services agencies and to start wholly new programs in areas not being served by an OEO-funded program. In the latter case, there are now seven programs serving 15 predominantly rural counties which did not have, and still do not have, OEO legal services programs for the poor. These programs now depend exclusively on HEW matching funds.

In the context of the entire Social Services program, with its ceiling of $2.5 billion, this $4 million worth of support for legal services programs does not loom as a major item. Yet, if it were to be cut out,

Pennsylvania would suffer proportionately more than any other state, since it receives more than half of all the funds used nationally for legal services. So I urge that you consider retaining legal services programs as a permissible use of Social Services matching funds under the new regulations.

Sincerely,

RICHARD S. SCHWEIKER,
U.S. Senator.

MAY 24, 1973.

SENATE FINANCE COMMITTEE,
U.S. Senate,
Washington, D.C.

GENTLEMEN: Enclosed is a statement of the Pennsylvania Legal Services Center in support of S. 1220 with recommendations for amendments thereto relating to legal services. This statement is submitted on behalf of the Pennsylvania Legal Services Center and nineteen (19) local legal services programs in Pennsylvania utilizing HEW social services funds to provide legal services to the poor. Please include this statement as part of the official record of the Committee proceedings concerning S. 1220.

We urge that the Committee take prompt action to report the bill favorably to the floor of the Senate.

Very truly yours,

GERALD KAUFMAN,
Executive Director.

STATEMENT OF THE PENNSYLVANIA LEGAL SERVICES CENTER IN SUPPORT OF S. 1220, WITH RECOMMENDATIONS FOR AMENDMENTS RELATING TO LEGAL SERVICES

The Pennsylvania Legal Services Center (PLSC) is a private, non-profit corporation responsible for the funding, on a state-wide basis, of local legal services programs. Recently organized at the direction of the Governor with the close cooperation and assistance of the Pennsylvania Bar Association, PLSC, through a contractual relationship with the Pennsylvania Department of Public Welfare, allocates funds derived from the Department of Health, Education, and Welfare, as well as from public and private sources, for the support of 19 independent local legal services programs serving the needs of the poor in 27 counties in the Commonwealth. PLSC, largely in response to local initiative, develops new programs in areas of Pennsylvania unserved by local programs, and provides training, technical assistance, and back-up services to local programs. Finally, PLSC monitors and evaluates the performance of local programs to insure that they are responsive to the needs of their client community and that they operate in accordance with the highest standards of professional responsibility and the highest level of professional competence.

PLSC is responsible to the Pennsylvania Department of Public Welfare for the utilization of all legal services funds derived from HEW and used for the support of local programs. To insure responsiveness to local needs, PLSC's board is composed of representatives of the organized bar, the public (appointed by the Governor), project directors of local programs, and client representatives. This board structure reflects the makeup of local program boards which also have significant bar and "client representation.

A unique feature of the approach Pennsylvania has taken in the development of local legal services programs is its reliance on local initiative and financial support. This approach assures that a local program will be responsive to the needs of the area it services, and assures accountability. Apart from useful organizational efforts which local groups have contributed, financial support has been received from the Bar Associations of 9 counties, the County Commissioners of 13 counties, Community Action Agencies in 13 counties, 5 municipalities, and various church groups, foundations, united funds, and private law firms.

Currently, Pennsylvania, through the Department of Public Welfare, spends $3 million annually to support legal services, of which $2.4 million are matching Federal funds derived from the Social and Rehabilitation Service of the Department of Health, Education, and Welfare. Seven local programs serving 15 predominantly rural counties are totally supported by these funds and 9 of the remaining local programs in the State depend on these funds for a substantial portion of their operating expenses, the remainder being supplied by the OEO, Office of Legal Services. In accordance with HEW's suggestion, the Pennsylvania Department of Public Welfare and the State and local bar associations have cooperated extensively with OEO in developing legal services in Pennsylvania, although the state's financial commitment has exceeded OEO's, which has remained at the $1.9 million level for approximately 4 years.

State, private, and matching Federal funds currently provide 107 lawyers to meet the demands of over 670,000 potential clients (recipients of cash public assistance payments) in the counties now covered by legal services. The Commonwealth has recently increased its commitment of state-appropriated funds to $508,000 for fiscal 1974.

Although legal aid programs had existed for some time, much of the local commitment to the provisions of legal services for the poor was crystallized in response to HEW's vigorous urging to move ahead in this area contained in HEW State Letter No. 1053. (Attached hereto as Exhibit #1.) Assured of HEW's commitment to provide comprehensive legal services for the poor, and realizing that local resources were insufficient to provide quality legal services in all areas of the Commonwealth, and particularly in rural areas, without Federal financial participation, local groups directed their energies and funds toward the initiation of programs which they expected would be long lasting with their continued support combined with that of HEW. Clients came to be accustomed to equal access to legal institutions once financial barriers were removed.

The continuation of Pennsylvania's extensive and effective HEW funded legal services program (which accounts for 55% of the total funds now available for legal services for the poor in the Commonwealth) is now threatened by new regulations adopted by HEW for the administration of its social services program, including legal services, now scheduled to be implemented on July 1, 1973. PLSC believes that legislation such as S. 1220, with the amendments proposed herein relating to legal services, is necessary to preserve legal services as a meaningful service to the poor.

These comments and recommendations are made on behalf of PLSC and the 19 local legal services programs jointly dependent on HEW matching funds for support.

NEED FOR CORRECTIVE LEGISLATION

PLSC strongly supports S. 1220 and, in particular, the Bill's intent to preserve intact, subsequent to July 1, 1973, important components of the HEW social services program by requiring the Secretary of HEW to maintain specified regulations for the administration of Titles I, X, XIV, and XVI and part A of Title IV of the Social Security Act as those regulations were in effect on January 1, 1973. The regulations now scheduled for implementation on July 1, 1973 have narrowed significantly the definition and scope of legal services which are reimbursable. We believe that S. 1220 should be amended to direct the Secretary of HEW to allow as broad a range of legal services as was heretofore provided.

Under the authority of HEW regulations in effect January 1, 1973, (45 CFR § 222.59 and § 222.91) and more particularly State Letter No. 1053 (November 8, 1968) a full range of legal services was permitted. State Letter No. 1053 provides, in pertinent part:

3. Scope of services

Legal services are defined to mean the services of a lawyer, made available to the eligible individual or family, for help with legal problems confronting them—including representation in court, and in court appeals where appropriate. The option is left to the states whether or not to provide legal services. . . . Basically, a total spectrum of legal services to clients is contemplated, but the state may determine for itself those categories of problems for which it will provide service. Fee generating cases are excepted from this definition. Matters in which the state has an obligation to furnish counsel to the indigent, such as in certain criminal and in juvenile matters, are also excepted. Legal services under the program are directed to the benefit of the client, to provide him with an advocate in situations where he needs the services of a lawyer . . .

This definition contrasts sharply with that included in the regulations to take effect on July 1, 1973 (45 CFR § 221.9 (b) (14)).

Legal Services—This means the services of a lawyer in solving legal problems of eligible individuals to the extent necessary to obtain or retain employment. This excludes all other legal services, including fee generating cases, criminal cases, class actions, community organization, lobbying, and political action.

This definition of legal services is defective, especially in contrast to the definition contained in State Letter No. 1053, in two ways:

1. It limits eligible clients to those having employment related legal problems, thereby excluding from service persons who may be unemployable but whose life situation could be improved by legal services. This would include the elderly, the disabled, and persons otherwise unemployable, such as dependent children.

2. It imposes a prior restraint on the type of service the lawyer can give to eligible clients by specifically excluding class actions, group representation, and lobbying, and thereby intrudes on the attorney-client relationship.

SUGGESTED LEGISLATIVE ALTERNATIVES

1. Mandate the State Letter No. 1053 Definition.

PLSC urges that S. 1220 be amended to include a directive to the Secretary of HEW to define legal services in accordance with the standards set out in State Letter No. 1053. Under this standard, each state now providing legal services could continue to determine for itself the categories of legal problems for which it will provide legal services to eligible clients.

2. Mandate an alternative definition.

As an alternative definition, PLSC recommends the following language:

Legal Services—This means the services of a lawyer in solving legal problems of eligible persons. This excludes fee-generating cases, criminal cases, and political action.

This alternative definition will allow the same range of services as the State Letter No. 1053, but would specifically exclude political action by legal services attorneys. The exclusion of political activity would have a beneficial effect in that it would further assure the insulation of legal services programs from political attacks.

3. Provide for Interim HEW Funding for Legal Services.

The Administration has recently introduced its proposed legislation to establish a national Legal Services Corporation. Once the Legal Services Corporation is organized, and adequately funded and structured to continue support of the comprehensive legal services system that has been established through OEO and HEW, the need for a separate HEW supported legal services program

may lessen. As a further alternative, therefore, PLSC suggests that S. 1220 be amended to instruct the Secretary of HEW to continue to define legal services, under either definition set forth above, on an interim basis pending the ability of the Legal Services Corporation to assume the burden of the current HEW funding.

RATIONALE FOR MAINTAINING A BROADLY DEFINED LEGAL SERVICES PROGRAM

1. The limitation on client eligibility strikes hardest at those most in need.

The proposed definition, by focusing on employment related legal problems, excludes services from many of the poor who are most in need, including elderly and disabled persons and others who cannot be moved to employment but whose ability to become self-sufficient could be enhanced with some legal assistance. The providing of legal assistance to stop the illegal eviction of an elderly person, thereby preventing his becoming a public charge, or the providing of legal assistance to solve the domestic problems of a woman who may then become available for employment are services excluded under the proposed definition. The definition also excludes legal assistance in areas of the law where exploitation of the poor is most common, such as in consumer affairs, and in issues relating the entitlement to public income maintenance benefits, benefits which are intended to provide temporary support directed toward the eventual employability of the recipient. In a perverse twist, the regulation even elimiates the representation of clients in fair hearings which are themselves required by the Social Security Act and other Federal and State laws. This policy is inconsistent with HEW's stated aim of getting social services to those most in need. The regulations emphasis on employment-related problems is a misdirected priority since it fails to recognize that other legal services can be a means to enhance a client's ability to achieve self-sufficiency.

2. The definition of legal services unduly restricts the scope of services that can be provided and thereby infringes on the attorney-client relationship.

The use of class actions as a tactical device in conducting litigation, the providing of legal advice as counsel to a group of clients, and lobbying activities performed in an attempt to acquaint legislative bodies with the particular problems of a client in order to provide information necessary to guide that body's deliberations are all traditional functions of a lawyer and are carried on every day by lawyers acting as advocates for their clients. Many of the lawyers engaged in lobbying, for example, are supported by public funds, either directly in the case of attorneys employed by government agencies, or indirectly, in the case of private attorneys where fees are tax deductible business expenses. The novelty of the regulations now to be changed is not that they sanctioned the use of public funds for these forms of advocacy, but that they gave poor people the means to have this sort of representation at their disposal for the first time. The proposed regulation, by eliminating these advocacy functions, deprives poor persons of quality legal services by insuring, before they ever consult an attorney, that the services they can expect to receive will be limited. If a client is to be adequately and aggressively represented by his attorney, the attorney must be able to employ all of the advocacy tactics at his disposal. To provide a legal services attorney with less is to assure that his client will receive less than equal justice.

Although the regulations contain no rationale for the limitation on the scope of legal services that can be provided, the intent may be to insure the professional responsibility of attorneys by limiting their activity in areas of the law in which the participation of legal services lawyers has been most controversial. If so, the regulations are a heavy handed approach since the machinery already exists to assure accountability. In Pennsylvania, the Pennsylvania Bar Association and local bar associations play a significant role in the development and direction of the local programs. The Board of Directors of each program includes client members who help assure that the activities of the program are conducted in the interests of the client population. Local government and private organizations, including both lay and bar organizations, have substantially contributed toward the development of programs and have continued their input toward the improvement of local programs. Affirmative action at the highest level of state government is necessary before a legal services program utilizing HEW funds can even be provided in a state. The proposed restrictions on the scope of services that can be provided do nothing to enhance the professional nature of the local programs, and in fact overstep ethical boundaries by limiting what actions the attorney may take in representing his client.

3. The restrictive definition for legal services will not result in a significant national cost saving.

Nationally, only $4 million of HEW funds is currently spent on legal services. The continuation of this level of funding in terms of the total national HEW budget is not inflationary. More importantly, the total amount of social services funds available to each state has already been limited by Title III of the Revenue Sharing Act. Legal services will now have to compete, at the state level, with other state priorities for the available social services dollars allocated to the state. Similarly, only a few states have opted to provide legal services since 1968. A continuation of a broadly defined legal services program would not open a floodgate since there is now great competition within each state for the available, and Federally limited, social services dollar.

In the past seven years, this country has made great strides toward reaching the goal of obtaining "equal justice under law" for every person regardless of his economic condition. The severe limitations in the proposed regulation by HEW for the use of social services funds for legal services represents a precipitous reversal of direction. For this reason, and the reasons set forth above, PLSC urges adoption of S. 1220 with the amendments proposed herein.

MEETING LEGAL NEEDS OF THE POOR

(NOTE—The State Letter reproduced here, discussing the need and the program for providing legal services for poor people and transmitting a Statement of Principles was issued November 8, 1968, by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare.)

TO STATE AGENCIES ADMINISTERING APPROVED PUBLIC ASSISTANCE PLANS

Legal services for the poor

In the year and a half since I assumed the responsibility of Administrator, Social and Rehabilitation Service, no subject has come up more frequently than the legal rights of poor people—what are they—what is our legal system doing to secure and protect them? Are they intrinsically different than the rights of any of us? What responsibility does the Department of Health, Education, and Welfare have in this area, especially that part of it, like Social and Rehabilitation Service, so intimately concerned with especially vulnerable people.

As a matter of fact, the securing and protection of the legal rights of poor people have been a subject of serious concern for the Social and Rehabilitation Service and its predecessor agencies in the Department of Health, Education, and Welfare for a number of years. In attempting to assure poor people their rights under law, it is clear that too often poor peoples' rights have not been clearly defined or if defined and understood have not been honored.

The Department of Health, Education, and Welfare has recognized the need of making the law meaningful to poor people, and of using the law to help them cope with problems imposed upon them through poverty. Committed as we are to the concept of "Equal Justice for All," our Department pioneered in studying this problem when it sponsored a conference in Washington in November 1964 on "The Extension of Legal Services to the Poor."

Since that time, great strides have been taken to provide lawyers for poor people to help them achieve their rights and to achieve social justice. The Office of Economic Opportunity Legal Services Program, as well as the organized bar, has done a great deal in the last few years in this regard; so has the legal assistance movement generally. Lawyers have done much for poor people on issues directly and intimately affecting their lives. This has not only improved the economic situation of the poor individually, and as a class, but the efforts of these lawyers have helped to convey to poor people a feeling that the law can be on their side.

Despite all that has been done to provide lawyers for poor people and to assure their rights in the last few years, there yet remains a large unmet need for legal services for public welfare clients with problems in the fields of domestic relations, consumer law, landlord and tenant relationships, etc. Community legal assistance agencies (those supported by OEO and the legal aid societies) report overwhelming demands for their services. Rural areas suffer from a particular dearth of free legal service for poor people. The Social and Rehabilitation Service in the Department of Health, Education, and Welfare is accepting its responsibility to help this situation by including legal services as one of those services for which it will provide matching funds where the State welfare department makes this service available in its public assistance program.

In the spring of 1968, we convened two meetings with groups representative of the organized bar, State and local public welfare agencies, voluntary agencies, and other Federal departments to assist us in developing a statement of principles for a legal services program in public welfare. The enclosed statement, "Principles for a Program of Legal Services for Public Welfare Clients," was developed as a result of these meetings and will serve as guides to be followed in developing a legal services program.

We strongly urge you to move ahead as quickly as possible to establish legal services programs. Justice delayed is justice denied. As indicated in the enclosure, section 1115 demonstrations (Social Security Act) are available for purposes of experimenting with the launching of a legal services program in geographically limited areas.

Because of the importance of legal services, I am establishing a special unit in the immediate Office of the Administrator to assume responsibility for implementation. Mr. Joseph E. Steigman, Legal Services Consultant, is being assigned to the unit to work directly under Mr. Joseph H. Meyers, Deputy Administrator.

Sincerely,

MARY E. SWITZER,
Administrator.

PRINCIPLES FOR A PROGRAM OF LEGAL SERVICES FOR PUBLIC WELFARE CLIENTS

The Social and Rehabilitation Service supports and strongly encourages the provision of legal services financed through the federally assisted public welfare programs. The following objectives are sought:

Legal services of high professional quality.

Complete independence of the attorneys to serve the client's interest.

Representation of the client in a broad range of circumstances and actions.

Close coordination and complementary relationships with the Legal Services Program of the Office of Economic Opportunity and with other community legal assistance services.

Achievements of these objectives will require cooperative relationships between the State and local public welfare agencies, the Department of Health, Education, and Welfare, the Office of Economic Opportunity, the organized bar associations at national, State and local levels, and a great number of agencies that provide community legal services.

1. LEGAL SERVICES—PROFESSIONAL PROGRAM

This is to be a professional program. It will be administered in accordance with the standards and ethics of the legal profession.

2. STATUTORY BASIS

The "services" sections of the various public assistance titles of the Social Security Act provide the bases for Federal participation in the funding of legal services furnished or made available by public welfare agencies. In general, services may be provided through the public welfare program, with Federal sharing, to needy individuals who are 65 years of age or over, blind or disabled, or who are members of families with children where a parent is dead, absent, incapacitated, or unemployed.

3. SCOPE OF SERVICES

"Legal services" are defined to mean the services of a lawyer, made available to the eligible individual or family, for help with legal problems confronting them—including representation in court, and in court appeals where appropriate. The option is left to the States whether or not to provide legal services. (However, effective July 1, 1969, States must make available the services of lawyers to welfare clients who desire them in public welfare agency hearings under the fair hearing section requirements of the Social Security Act.) Basically, a total spectrum of legal services to clients is contemplated, but the State may determine for itself those categories of problems for which it will provide service. Fee-generating cases are excepted from the definition. Matters in which the State has an obligation to furnish counsel to the indigent, such as in certain criminal and in juvenile matters, are also excepted.

Legal services under the program are directed to the benefit of the client, to provide him with an advocate in situations where he needs the services of a lawyer. Legal activities primarily benefiting the administration of the public assistance program are not encompassed within the definition. Non-support and paternity actions, in particular, present a problem as to whether the client or the agency is primarily benefited. Accordingly, such actions may be included only as part of a program providing comprehensive legal services, and only where the lawyer represents the individual client.

States are urged to support broad programs of legal services required by public welfare clients.

4. RELATIONSHIP TO THE BAR

The support of the American Bar Association and the National Bar Association will be solicited in regard to national objectives of the legal services program; and States will be encouraged to seek the support of State and local bar associations.

5. RELATIONSHIP WITH OEO

The Department of Health, Education, and Welfare support of legal service programs will be closely coordinated with OEO. State programs supported by HEW must be so designed as to complement, and not compete with, programs in the State supported by OEO.

6. METHODS OF PROVIDING LEGAL SERVICES

It is expected that the services will be provided through purchase arrangements by the public welfare agency. The priority method is the purchase of legal service from an existing community program, e.g., OEO funded law office or other community legal assistance service, etc. This would include the purchase of service to enable such existing program to expand the scope of its services, the geographical area it serves, or both. In the absence of an existing community program, the welfare agency may wish to explore with local bar or other groups the possibility of creating such a program.

Agreement will need to be reached with such resources to assure a level of service by them for public assistance clients, financed from other sources, which is not diminished by reason of the public welfare agency's purchase. Reimbursement may be made through any equitable method, which is supported through sample cost analyses or other objective justification.

Where this priority method is not feasible—where no community legal assistance type of service now exists or is arranged—services may be purchased from private attorneys. This situation may arise most frequently in rural areas.

Attorneys on the staff of the public welfare agency, or under full or part-time retainer by it, may be used to provide legal services under the program only upon a showing satisfactory to the Federal agency that the professional nature of the program will be maintained. Such attorneys may in no event be used in matters that could give rise to a conflict of interest—as in disputes between the client and public agencies.

Whatever the method employed to deliver the legal service by the public welfare agency, the attorney-client relationship will be preserved and the independence of the attorney to represent his client's interest will be assured. Regardless of the method of delivering the service, lawyers may not be subject to the control of lay persons in the exercise of their professional responsibilities.

7. FEDERAL FINANCIAL PARTICIPATION IN LEGAL SERVICES

a. Federal financial participation in the cost of legal services as described above for families with dependent children under title IV, Part A, of the Social Security Act, as amended, is available at the 85 percent rate up to July 1, 1969, and at the 75 percent rate thereafter, as a family service or child welfare service.

b. For the adult categories (aged, blind, disabled)—Federal financial participation is available in the cost of legal services, as described above, at the 75 percent rate, if the agency furnishes federally prescribed services for the particular category and if the State, in addition, includes legal services; and the 50 percent rate would be applicable if the State does not furnish federally prescribed services, but does include legal services. The non-Federal share must be in cash from public sources.

8. METHODS FOR MAKING LEGAL SERVICE KNOWN

Methods for making the availability of the legal service known to the potential client and the community will need to be developed by the public welfare agency. Such techniques would include the orientation of public welfare agency staff to recognize possible legal problems of the poor, through clients and their representatives, liaison with the organized bar, use of various communications media, etc.

9. STATEWIDENESS

The provision of legal services can comply with the State-wide statutory provision through the delivery of the service by different methods in different areas of the State. The State-wideness requirement can be waived for an experimental, pilot, or demonstration project designed to show how legal services can be carried out in a State.

10. ADVISORY COMMITTEE

It is planned that an advisory committee to the Social and Rehabilitation Service will be appointed to provide consultation in regard to the development and operation of the legal services program and will meet periodically.

It is anticipated that the committee will be representative of the organized bar associations (including the American Bar Association, National Bar Association, etc.), practicing attorneys from the poverty law field, representatives from the National Legal Aid and Defender Association, from OEO and other Federal agencies, public welfare representatives and other persons active and interested in programs of legal services for the poor, including representatives of welfare client groups.

Likewise, public welfare agencies should utilize State and local advisory committees in the development of their legal services programs, where feasible. Most of the members of the national, State, and local advisory committees should be lawyers.

Mr. MATHIAS. Mr. President, last March it was my pleasure to join with other Members of the Senate in cosponsoring S. 1220, a bill to limit the authority of HEW to impose by regulations certain additional restrictions upon the availability and the use of Federal funds authorized for social services under the public assistance programs established by the Social Security Act.

This legislation became necessary because HEW saw fit to publish a set of proposed regulations on February 16, 1973, which would have had the effect of totally eliminating some social service programs while drastically reducing others far beyond the annual ceiling on Federal social services expenditures of $2.5 billion which was established by the Congress last fall.

The impact of the new social services regulations on Maryland and the rest of the Nation would be, by even the most conservative estimate, excruciating. In recent weeks, hundreds of thousands of citizens have attempted to bring home this point to the Secretary of HEW through letters, phone calls and personal visits to Washington. Today, we are faced with the prospect of watching these regulations take effect within 4 days unless the Congress stays the hand of HEW.

Mr. President, we now have before us an amendment to the debt limit bill which will delay the effective date of the regulations until January 1, 1974. I shall support this amendment because it closely corresponds to the purpose of S. 1220. If this delay is won, the Congress will have the opportunity to carefully review the issues that have been raised by the regulations without penalizing the very individuals HEW was established to help.

Since February, I have been in touch with many organizations, individuals and agencies in my State in connection with this problem. Mr. President, I ask unanimous consent that a Report to the Maryland General Assembly by Secretary David T. Mason, the Maryland Department of Employment and Social Service, on the impact of the social services regulations; an excellent statement

by Mrs. Terry M. Lansburgh, president of the Maryland Committee for the Day Care of Children, which was presented to the Senate Finance Committee; and some most illuminating reports from various Maryland County Departments of Social Services on the regulations be inserted in the RECORD.

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

IMPACT OF REDUCED FEDERAL SUPPORT FOR MANPOWER AND SOCIAL SERVICE PROGRAMS OPERATED BY DESS

(A report to the Maryland General Assembly by the Department of Employment and Social Services, David T. Mason, Secretary)

I. INTRODUCTION

The last seven months have produced substantial turmoil for the Department of Employment and Social Services because of the persistent uncertainty regarding the stability of federal funding for Maryland's manpower and social service programs. This uncertainty continues in large measure because of a lack of leadership and decisive action from the federal level.

During the 1973 Session of the Maryland General Assembly, the full impact of the gyrations at the federal level was not yet known to the Members, but a clear awareness existed that the impact would be substantial and that a reassessment of the State's role in supporting human service programs would be in order. Accordingly, the Department's budget report indicated:

The Committees recommended that the Legislative Council review the status of federal support for social services and employment programs during the 1973 interim. The Department of Employment and Social Services is requested to submit a report which reviews the status of programs which have experienced reduced federal support, with recommendations as to which programs, in order of priority, may require additional State support. Said report should be submitted to the Senate Finance Committee by June 15, 1973.

As requested, the Department submits herein its report on the effects of federal fund reductions on its human resource development programs. The context in which the report should be viewed is important. While this report focuses on programs within the Department's areas of direct responsibility, it does not reflect the many federal fund reductions being experienced by other agencies in Housing, Model Cities, and other related areas. These reductions, however, do have their most substantial effect on this Department's clientele, and a spillover effect can be anticipated. For example, immediate spillover effect has already occurred in Baltimore City where cutbacks in the Model Cities Program have resulted in the defunding of several programs jointly funded by DESS and Model Cities.

This report attempts to present information on the current status of human service programs in three areas:

1. Social Services,
2. Community Action, and
3. Manpower.

Because of the greatest investment of General Funds and the greatest impact on Department activities is in the area of Social Services, the bulk of this report deals with the status of federal support of programs operated by the Social Services Administration and the twenty-four local departments of social services.

II. SOCIAL SERVICES

The social activities of the Department have their Federal statutory base in the Social Security Act of 1935, as amended. That Act, as well as being the source of funds for public assistance payments, provided in Titles IVA and XVI that social services should be provided to individuals who were receiving public assistance (current recipients), who used to receive public assistance (former recipients), and who were likely to become recipients of public assistance (potential recipients). The purposes of the provision of social services, among others, were to reduce dependency, to strengthen family life, and to foster the development of children. The Act provided that 75% of the cost of social service programs conducted under the "single state agency's" approved State Plan would be paid for in Federal funds. To allow states flexibility in dealing with fluctuating caseloads and to stimulate the growth of social services programs, the Congress left the amount of funding which any state could receive for social service programs "open-ended."

A. Impact of Public Law 29–512

Over the last several years states began to substantially increase their utilization of Federal social service funds, particularly by increasing services to potential recipients to prevent dependency. Concerned with the growth in social service expenditures, the Congress, in October 1972, added a Title III to what was to become P.L. 92–512, the General Revenue Sharing legislation. Title III, now identified as Section 1130 of the Social Security Act, placed an annual ceiling on Federal social service expenditures of $2.5 billion. Under the law's formula, Maryland would be entitled to receive *up to* $48.6 million in Federal social service funds in FY 74 ($36.8 million for the last three quarters of FY 73). However, in addition, the Congress, in a more serious action, required also that with certain exceptions 90% of all the federal social service funds spent by a state must be spent on current recipients and applicants of public assistance. Only 10% of the funds could be spent on former or potential recipients. The funds exempted from this spending ratio were funds utilized for day care, foster care services, family planning services, and services to the mentally retarded, drug addict or alcoholic. Funds utilized for day care were only exempt of the day care service was provided to facilitate the work or training of the parent or was related to the parent's death, absence or incapacity. In addition, the new law changed the federal matching ratio for emergency services from 75/25 to 50/50.

The effects of the imposition of the 90/10 ratio of funds spent on services to current recipients as opposed to former or potential recipients can be seen in the attached charts in column three, titled, "Revenue Sharing: Units Affected." The implications of these reductions in service are discussed later in this report. These cuts *have already* been effected. The services indicated have been stopped to avoid the loss of federal funds due to noncompliance with the 90/10 ratio.

B. Impact of new social service regulations

Imposition by the Congress of $2.5 billion annual ceiling on federal social service expenditures, while approved by the President in October of 1972, was not consistent with the expressed intent of the Office of Management and Budget and the Department of Health, Education and Welfare which had sought a lower ceiling. Accordingly, HEW published proposed regulations (45 CFR 220, 222) in the Federal Register of February 16, 1973, which would have had the effect of totally eliminating some social service programs while drastically reducing others far beyond the cuts already caused by the provisions of P.L. 92–512. Despite receiving over 200,000 almost universally negative comments on the proposed regulations, HEW published on May 1, 1973, with few substantive changes from February 16, 1973, its new social service regulations (45 CFR 221) to be effective on July 1, 1973. These regulations were further amended on June 1, 1973.

The new Regulations will affect federal reimbursement in Maryland primarily in four ways:

1. Elimination of federal reimbursement entirely for certain services.
2. Restricting reimbursement for certain services by substantially narrowing the definition of the services.
3. Restricting reimbursement for services to noncurrent recipients by substantially narrowing the definitions of "former" and "potential" recipients.
4. Restricting reimbursement to services specifically related to narrowly defined goals of self-support and self-sufficiency as opposed to the broader goals expressed in the Social Security Act.

The impact of the new Regulations can be seen in attached charts in columns four and five, titled "Social Services Regulations; Units Affected." The implications of these reductions in service are discussed later in this report. If the Regulations are implemented on July 1 as expected, the service reductions indicated in column four will be effected immediately, and those indicated in column five will be effected between July 1 and September 30, 1973. As of June 15, 1973, the possibility exists that the Congress will take action to prevent HEW from implementing the Regulations on July 1, 1973, as planned.

C. Fiscal implications of combined impact of Public Law 92–512 and new social services regulations

The attached charts present data on the combined impact of P.L. 92–512 and the new Social Service Regulations operated directly by the Department or by contract to other state and local agencies. The immediate impact on the Department is an annual loss of $17,513,911 in either funds or value of services discontinued. To avoid an actual fiscal loss which could not be absorbed within the Department's budget, DESS, in conformance with P.L. 92–512, has already discontinued service to 40,755 individuals and families who were actually receiving services or in the case of contracts with the Housing Authority of Baltimore City and Workshop for the Blind were expected to receive service within the coming year. Thus, with the exception of those services exempt from the 90/10 formula and Child Welfare services which the Department is currently attempting to preserve by utilizing its ability to devote 10% of its federal social service funds to noncurrent recipients, the Department is now providing social services funded from Titles IVA and XVI to *only* current public assistance recipients.

The new social service Regulations, once effective, will result in an additional loss of federal reimbursement for 50,918 units of service of various types. In some instance, a unit represents a family or individual losing service, while in others a unit represents the loss of a Departmental service to another provider of service such as an institution or home (adoptive home, foster home, or family day care). The Department fully intends to take action to avoid an actual fiscal loss by terminating services no longer eligible for federal reimbursement and individuals no longer eligible to receive services. In most instances *the Department will be able to redirect service efforts* to continue to receive federal funds, as discussed below. In some instances, however, because of State law, or because of the dependency of an eligible service on an activity declared ineligible for federal reimbursement by the new regulations (e.g. licensing), the Department will attempt to continue a service by redirecting current and seeking new resources.

One additional point on fiscal impact is important. While the immediate combined

impact of the new law and regulation is $17,513,911, that impact will be substantially reduced, as indicated, by redirecting the Department's resources and service efforts. In many instances, it is anticipated that services to individuals no longer subject to federal reimbursement will be supplanted by services to individuals who continue to be eligible. To the extent this happens, while service will be lost to certain individuals, a new service value will be created. The Department estimates the maximum "recoupment" of federal funds by this process to be $6,715,862, as noted on the accompanying chart.

D. *Plan of action*

Despite the lack of information from HEW regarding implementation of the new social service regulations (the Regulations were last amended on June 1, 1973), the Department is now engaged in preparation for implementation and detailing a plan of action. The format for action in coping with the loss of federal support is as follows:

STATE OF MARYLAND, DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES, IMPACT DATA, REVENUE SHARING (PUBLIC LAW 92-512) AND SOCIAL SERVICE REGULATIONS PREPARED BY THE OFFICE OF PROGRAM PLANNING AND EVALUATION

DEPARTMENT OPERATED PROGRAMS

Program	Units of service as of Mar. 1, 1973	Revenue sharing: Units affected	Social service regulations units affected: Service definition	Social service regulations units affected: Eligibility [1]	Total units affected: Number	Total units affected: Percent	Annual Federal reduction
(1)	(2)	(3)	(4)	(5)	(6)		(7)
Public assistance service.	4,586 adults	[1] 723		25	748	16.3	$326,367
Do	10,914 families	[1] 2,516		196	2,712	24.8	1,056,704
Intermediate care	3,642 adults	3,311			3,311	90.0	336,826
Homemaker	720 families	[1] 288		40	328	45.6	448,507
Do	680 adults	[1] 320		23	343	50.4	469.018
Day care service	5,713 children	[1] 1,048	297	2,002	[2] 3,347	59.0	3,766,248
Day care licensing	4,800 families		4,800		4,800	100.0	330,000
Single parents service.	2,015 families	[1] 715			[3] 715	35.0	159,931
Protective service	3,178 families	[1] 418		1,065	[3] 660	21.0	295,970
Adoption	1,074 children		1,074		1,074	100.0	240,877
Adoption	1,362 homes		1,362		1,362	100.0	$308,248
Foster care	1,952 homes		1,952		1,952	100.0	315,990
Foster care application.	1,498 children			737	737	49.0	119,306
Foster home reviews.	4,390 homes		4,390		4,390	100.0	710,653
Institutional licensing.	50 institutions		50		50	100.0	22,347
Legal services	25,000 cases	6,000	18,000		24,000	96.0	1,211,250
Total	71,574 units	15,339	31,925	4,088	50,529	71.0	10,118,242

[1] Program data as footnoted reflects immediate impact. DESS will be replacing those persons immediately affected with eligible persons in need of service. As replacements are made, the reduction in Federal funds will decrease proportionately. Estimated maximum recoupment for programs listed above is $4,871,914 (includes designated programs in col. 3 and all of col. 5).

[2] Adjusted figures—assumes 50 percent will participate under fee scale; that is, 540 affected by fee scale.

[3] Adjusted figures—indicates balance of service units after maximum possible shift to title IV B which are unaffected by regulations.

CONTRACTED PROGRAMS

Program	Units of service as of Mar. 1, 1973	Revenue sharing: Units affected	Social service regulations units affected: Service definition	Social service regulations units affected: Eligibility [1]	Total units affected: Number	Total units affected: Percent	Annual Federal reduction
(1)	(2)	(3)	(4)	(5)	(6)		(7)
School without a building.	189 children		189		189	100	$326,999
SAGA (day care—elderly.)	750 adults	277			277	37	288,299
Consumer law	3,250 cases	1,625	1,625		3,250	100	73,757
Vocational rehabilitation.	400 cases		400		400	100	300,000
Summer camp	11,871 children		11,871		11,871	100	671,000
Mental retardation day care.	1,821 cases			[2] 660	660	36	1,682,657
Workshop for blind	10,000 adults	9,500			9,500	95	$4,119,621
Housing authority (Baltimore City).	46,666 cases	14,000			14,000	30	478,645
Model Cities day care, Prince Georges County.	310 children			[3] 145	145	47	161,291
Health and welfare council.	658 cases	14	15		29	4	24,400
Total	75,915 units	25,416	14,100	805	40,321	53	8,006,669

[1] The data in this column reflects immediate impact, Contractors will attempt to replace ineligible persons with eligible persons in need of service. As replacements are made, the reduction in Federal funds will decrease proportionately. Estimated maximum recoupment for programs listed above is $1,843,948.

[2] 1,000 mentally retarded adults remain eligible until Dec. 31, 1973, due to exemption in eligibility requirements.

[3] Adjusted figures—assumes 50 percent will participate under fee scale; that is, 88 subject to fee scale.

STATE OF MARYLAND, DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES, SUMMARY—IMPACT DATA, PREPARED BY THE OFFICE OF PROGRAM PLANNING AND EVALUATION

	Total units of service	Total units affected: Number	Total units affected: Percent	Total annual Federal reduction
Department operated programs	71,574	50,529	71	$10,118,242
Contracted programs	75,915	40,321	53	8,066,669
Grand total	147,489	90,850	62	[1] 18,184,911

[1] Maximum recoupment due to replacing ineligible people is estimated to be $6,715,862. The extent to which actual recoupment can be achieved is not yet known. The ability to recoup depends heavily on the nature of the service involved. For example, replacement of noncurrent recipients no longer served in public assistance services to adults will be substantially more possible than replacement of 737 foster care applicant children, which normally involves a matter of judicial determination.

1. Conform to P.L. 92-512 by eliminating service to individuals where necessary to meet the 90/10 formula requirement and the rationale for provision of the day care service. This has been accomplished. Select services operated by the Department have been affected in the following manner:

a. Public Assistance Services. This service, which may be generally conceived of as the services of a caseworker, range from family counseling to such activities as assistance in securing housing or needed medical services. This service is now only available for welfare recipients. The "near-recipient" is excluded.

b. Intermediate Care Service. This service to adults in Intermediate Care Facilities (ICF) is focused on attempting to assist such institutionalized individuals to return to their homes. It has been reduced by 90% since that portion of those receiving services were "near-recipients."

c. Homemaker Services. This service has many purposes which include attempting to main an elderly or disabled individual within his own home when he is unable to fully care for himself in the home and thus avoid institutionalization, and caring for children when a mother is incapacitated and thus avoid placement of the children in temporary foster care. This service has been reduced by approximately 50%.

d. Day Care. This service has been eliminated for 1048 children for whom the rationale for the provision of service did not meet the definition of the new law.

e. Single Parent Services. This service, which is focused on preventing births out of wedlock and assisting an unwed mother to adequately care for her child, has been reduced by 35%.

f. Maryland Legal Service Program. This service has been eliminated for 6000 families and individuals who are eligible for Medicaid but not public assistance.

g. Purchase of Services. The Department has cut back purchase of service contracts to service only current recipients of public assistance.

2. Seek to obtain continuation or reinstitution of Intermediate Care Services by transferring the cost of the service to Title XIX and the budget of the Department of Health and Mental Hygiene. This action was unsuccessful due to a lack of resources within the DHMH budget.

3. Attempt to redirect staff resources to exempt services or to serve current recipients as "near-recipients" are dropped. This activity is currently ongoing and proving successful. The full possibilities here are not yet known. However, the number of individuals receiving Public Assistance Services to adults increased by 11% between March 1 and June 1, 1973. This was primarily due to the availability of staff being transferred from the discontinuance of Intermediate Care Services. In addition, to the extent that services can be redirected to WIN participants as "WIN-authorized" services, the services provided can receive 90% federal reimbursement instead of the usual 75%. Likewise, the Department is undertaking a major effort to expand family planning services to all current, former and potential recipients; this also is a 90% federal reimbursement service. The bulk of those displaced staff not redirected into such activities will be more than fully accounted for in complying with the stringent new eligibility and redetermination of eligibility requirements of the new Regulations.

4. Prepare to comply with the new federal social service regulations. The Department has taken steps to comply fully with the new Regulations as they are currently understood. As of June 15, 1973, instructions on implementing the Regulations which were to be issued by HEW concurrently with the issuance of the Regulations have not yet been so promulgated. The Department has sought written clarification on major elements of the Regulations, as yet without response by HEW. Unless implementation of the Regulations is postponed by Congressional action, the Department will proceed to eliminate those services and service units indicated in the impact charts, columns four and five. However, because of the State statutory requirements or other reasons, the Department is immediately seeking resources to continue providing: Day Care Licensing, Protective Services, Adoptive Services, Foster Care Services, and Institutional Licensing.

The anticipated loss of federal funds for these activities is $2,343,491. The Department is currently exploring ways to reduce the cost of these services while maintaining the level of effort that is essential.

Beyond the above-listed services which are essentially mandatory, the Social Services Administration and the Office of Program Planning and Evaluation are preparing an analysis of service priorities which will be forwarded to the Senate Finance Committee as a supplement to this report prior to July 15, 1973.

5. Explore new service activities depending on the implementation of the new Regulations. If implementation of the new Regulations is averted by Congressional action, the Department may still be faced with a resource allocation in certain areas which is no longer efficiently utilized because of the elimination from service of non-recipients. There are, however, major areas of service the Department is interested in and capable of developing if the opportunity is presented. Chief among these services are foster care for adults and day care for the elderly. Although the Department has limited activities in these areas currently, these services remain eligible for federal reimbursement to the extent the services are provided to current recipients. The General Assembly indicated its interest in this type of service by the passage of several pieces of legislation during the last session.

E. Implication of not restoring select services

The implications of the Department's not maintaining the adoption, protective services, licensing and foster care services which it considers essentially mandated are rather obvious. The implications of not maintaining or restoring other services may not be so obvious. These services, which will be reflected in the supplement to this report to be filed by July 15, 1973, include:

1. Homemaker Services. The reduction in homemaker services will lead to increased institution of the elderly and disabled, and increased use of foster care for children, among other effects. The average cost to house an individual in a skilled nursing home is projected to be $510 per month, in an Intermediate Care Facility, $383, or in Foster Care $135 per child per month. In FY 74 the Department's homemaker service was expected to avert 1022 foster care placements and 1431 placements in ICFs and skilled nursing homes.

2. Day Care. At this point, no projection is available of the number of low income families with working mothers which may be forced to utilize public assistance because of the loss of day care. Aside from welfare families, essentially any non-welfare family of four with a gross annual income up to $3600 will be eligible for free day care if the need for service is linked to employment, training, or the absence or incapacity of the parent. Similar families with a gross annual income between $3600–$5600 will be required to pay a sliding percentage of the cost of the service. Totally eliminated from service per se will be children with special needs such as the emotionally disturbed, the deaf, and the blind.

3. Intermediate Care Services. As pointed out above, it can be anticipated that the reduction in Homemaker Services will result in a greater use of Intermediate Care Facilities.

Because of the almost total loss of the Department's Intermediate Care Services, it can likewise be anticipated that, once in an ICF, individuals will remain there for longer periods of time.

4. Legal Services. Ninety-six percent of this service will be eliminated by the combined effect of the new law and new regulations. The primary reduction will be the restricting of the service to legal assistance in obtaining or retaining employment. All other legal services; e.g., assistance in divorce actions, preparation of wills, etc., will be eliminated.

F. Summary

While the nature of the reduction in federal support for social services is extreme, the Department is moving well to achieve compliance, to redirect service efforts where necessary, and to seek to compensate for services lost or in danger of being lost. The situation is currently in flux, and will drastically change if Congressional action to prevent implementation of the new social service regulations is successful. A supplement to this report will be filed with the Senate Finance Committee by July 15, 1973, with an up-date of the status of federal support for social services.

TESTIMONY BEFORE THE SENATE FINANCE COMMITTEE, MAY 16, 1973

(Therese W. Lansburgh, vice chairman, Developmental Child Care Forum, 1970 White House Conference on Children*)

It is a pleasure and an honor to appear before this distinguished Committee and especially before the senior Senator from my former home State of Louisiana.

Although I shall be addressing myself specifically to the issue of day care, I must first emphasize my concern with the overall direction—or misdirection—of the New Regulations governing Title IV–A of the Social Security Amendments issued May 1 by the Department of Health, Education and Welfare.

All the services are needed. All the reductions are punitive. "Give me your tired, your poor, Your huddled masses yearning to breathe free," is emblazoned on the Statue of Liberty. This gift of the French people was a tribute to the people of the United States, to the American dream and the hope it generated among all the peoples of the world—hope for the future, hope for overcoming poverty, hope for becoming a success.

America has been the land of promise for those who applied themselves, who weren't afraid to work, who believed that they might be able to build their own lives, to become a part of the mainstream, even to excel. And now, with the changes in the Social Security Regulations proposed by the Administration, we are abandoning, destroying their principles, hopes, ideals. We are no longer going to encourage people who try to get ahead, those who are working but not earning enough to pay for the basic necessities of life. We have been helping them to help themselves without penalizing their children. Under the new regulations, the impact of the income cut-offs, even as revised, will be to eliminate the very people whom we should be encouraging, the people who are the backbone of American progress and prosperity.

Only the Congress of the United States can preserve our traditional American principles of reward for those who labor, who try to earn their bread. These who will be affected under the Regulations need help not because they are indolent or lazy, but because they do not earn enough to support their family and need a small assist from the government. The new Regulations crush the working poor and their children. The new Regulations are also contrary to the will and intent of the Congress of the United States, which placed a ceiling of $2.5 billion on this program last December. These new Regulations are intended to cut the program to $1.8 billion and impound funds without calling it impoundment. There are many other ways to attempt to save money—but not out of the hides of the people who can least afford it, and not when it is contrary to Congressional legislation.

I strongly urge that the Senate pass legislation which will maintain the Regulations in their entirety at the current level, which will aid those who, by the sweat of their brow, help themselves, and deserve our assistance, specifically, House Joint Resolution 434.

I am submitting to the Senate Finance Committee, as a part of my testimony, the Report of the Developmental Child Care Forum of the 1970 White House Conference on Children. Developmental child care was voted *the* priority of the 70's by the entire Conference delegates. The Forum called for 500,000 new spaces annually between 1970 and 1980, to begin to meet the crying need. It also called for quality child care. Congress passed legislation translating that mandate into reality. The President vetoed it. Now, the new Regulations decrease rather than increase both the quantity and quality of the way this nation cares for the children of its working mothers. It is time to look again at the recommendations of the dedicated and knowledgeable group who laboriously hammered out a desperately needed plan for America's children. The problem continues to grow at an increasing pace. We ignore it not only at the peril of affected children and their families, but at our own peril. What we do today determines much of what they become tomorrow. We need to increase day care, not decrease it.

* Mrs. Lansburgh is currently President of the Maryland Committee for the Day Care of Children.

Day care is America's most promising instrument to solve America's most pressing problems. Day care reduces welfare. Day care promotes workfare. Quality day care is the single most effective institutional force to nourish, nurture and educate our children.

These are the very principles President Nixon campaigned on: an end to needless welfare; a national program of workfare; and keeping faith with America's traditional ideas and goals. Yet the Nixon administration in revising day care regulations and slashing day care budgets has, in a single act, broken faith with any hopes of realizing those goals.

The new Regulations shut out the working poor—the very people President Nixon claimed merited the most encouragement. The ones who have their own "workfare." Hundreds of thousands of children of the working poor will have to leave day care programs. Mothers go in and out of the work force according to the availability of day care services. Mothers no longer eligible for subsidized support will have to leave their jobs and go on welfare when they no longer can afford quality day care for their children.

The irony, the tragedy, the travesty of the situation cries out for justice. Congress cannot let this happen. We are not saving money—and we are certainly not salvaging human lives. We are decreasing day care costs just to increase welfare costs. We are not encouraging workfare by forcing mothers onto welfare. And we are not enabling children whose mothers are working to fulfill their potential or their civic duties by denying them the very benefits that middle-class children whose mothers are at home receives in kindergarten and nursery school.

Let's move away from this fallacious theory of economy and look at what day care provides in the purest terms of human development.

The explosion of research knowledge on early childhood development in the last decade can be reduced to eight principles justifying a massive national investment in day care.

One: A child's first six years are his most important, formative years. Here, his personality, his intellect, his outlook, his ability to love and hope or hate and despair are formed.

Two: The family is the most influential force. An exhausted mother, an absent mother, leaving her child without an adequate surrogate, can deeply damage personality and stunt intelligence. We must help preserve the family, help it to be financially independent and still meet its child rearing responsibilities.

Three: All growth is interrelated—physical, social, emotional and intellectual. Neglect of one aspect of development affects all other aspects.

Four: From inception through early childhood, critical periods occur affecting physical development. For example the brain is growing faster during pregnancy and the first 18 months of life than it ever will again, and the greatest increase in size occurs during this time. There is serious concern that malnutrition at this crucial time can result in irreversible damage—damage which could be prevented.

Five: A child's first years—even the years before verbal understanding—affect his personality, his attitude and aptitude throughout life. The infant who is not physically held because there is not enough individual attention, the child who is constantly rejected or neglected becomes permanently discouraged at best; brutalized at worst.

Six: Experience affects growth and development. The more a child touches, sees, feels, learns, the more his intellect is challenged, the more he grows in character and social response-ability.

Seven: Heredity and environment do interact. An optimum environment may not make a genius, but it can make the difference between a normal and subnormal intelligence quotient, can make the difference between a motivated, confident, contributing adult—or a passive, despondent, dependent one.

Eight: Growth is cumulative. The more a child is nurtured, nourished, educated and challenged, the more he will develop, build on skills, welcome life and responsibility.

These eight facts argue for the increase of day care. Quality day care is to nurture and nourish the child during his earliest, most formative years. Day care is a source of critical support to the working mother. Quality day care provides intellectual stimulation, a diversity of experiences, a warm environment encouraging a child to grow. Day care is above all else a proven positive force for civilization in the precise sense of the word—a place which reinforces a child's first understanding of civility, and civility is the key to citizenship.

A child who is nurtured and nourished can be an outstanding citizen. But neglect generates delinquency and dependency. Most civilized, developed nations realize this and provide state supported day care. America is desperately behind times. Clinging to the myth that we are a child-loving society, we encourage mass child neglect and pay the price later in taxes for prisons, drug and delinquency programs.

Developmental day care can be our best and cheapest chance to save an about-to-be-lost generation, to beat the welfare cycle and to equalize opportunity for our culturally deprived. Day care can prevent problems and correct unjust conditions. It is an extraordinary investment—*not* an extravagant expenses.

The new Regulations will cut day care costs and close day care centers, further decreasing the availability of good day care for middle-class families who can pay for it in full. In Maryland, we anticipate a 40% drop in enrollment in publicly supported day care due to the new Regulations. Centers, where over half the children receive public support, will close.

What will happen? In most cases, mothers will be forced to leave their jobs and go on welfare—ironically making their children instantly eligible for day care again. This I call the "yo-yo" syndrome. We're snapping our working poor from high hopes to low despair like yo-yo's on a string. But they aren't yo-yo's. They are human beings, slugging out a marginal existence, doing necessary work to maintain self-respect. How can we reward them by slapping them back into the mire, while we self-righteously denounce their indolence?

Some, of course, will not return to welfare, but unable to afford adequate day care, will turn their children over to warehouse sitters—the sick, the old, the alcoholic who will quote "watch children" in their homes.

Frankly, I prefer welfare to warehousing. A welfare mother is at least able to love and supervise and, perhaps, educate her child. The child left in the lifeless custody of a warehouse sitter is ignored, possibly starved and occasionally abused.

Yet welfare mothers or warehoused children will be the only choices for 40% of our supplemented day care users in Maryland, unless Congress revises the punitive HEW standards.

Congress must look at other revisions too. Quality controls have all but disappeared. The provision for parental choice and approval of day care centers is gone. A parent's concern is a spontaneous guarantee of what's best for his child. It has been abandoned. Further, interagency standards have been lowered. This invites warehouse conditions—programless centers, providing custody at minimal costs. Day care professionals agree that no day care is better than warehousing. Custody without plan or purpose diminishes human capacity. Interagency standards must be kept high. Leniency in this case is irresponsible laxness.

Finally, the failure to provide licensing funds is a serious, severe blow. Even our dogs are licensed! Is the government to deny the same protection to our children?

And there is no hope, except Congress. As head of the Maryland Committee for the Day Care of Children, I have met with both our Governor and Baltimore's Mayor. For every $1.00 Maryland received in revenue sharing, $5.00 in major vital programs were cut. Baltimore City is maintaining certain critical day care centers on re-shuffled Model Cities funds. But the choices are hard, and often tragic.

Maryland has 350,000 children of working mothers—almost 150,000—under the age of six. Of 4,665 children in day care supported by title IVA, 1,759 will be out July 1. And as always, the poor and working poor have the greatest need and fewest facilities. This is true throughout America. The 1970 White House Conference on Children recommended that government provide 500,000 additional day care spaces annually for a decade; a 100% funding for the poor, and sliding scale payments for low to lower middle income families. The 1970 White House Conference documented the urgent need. It's recommendations are as neglected as the children of our poor and working poor.

To conclude, I offer a case history and a challenge. It is the case or a working poor mother in California, a widow left without resources to raise three sons. She tried to run a small shop from her home, and failed. Forced to work outside her home, she left her youngest son in the custody of sitters. Soon, she noticed the lad had welts—he had been beaten. She tried another, then another sitter. One worse, more brutal or irresponsible than the other. Finally, foster care for a while she wanted him home, but there was no place to nurture a pre-school boy and provide peace of mind to the desperate mother.

Ultimately, the mother moved to New York. The boy—a latch key child by now—was withdrawn, a truant already showing pronounced personality disturbances, caused by a lack of proper care. No one cared for this boy. His mother couldn't. The State wouldn't. Until November 22, 1963, when this neglected child exploded his anger on his nation by murdering its President.

How many Lee Harvey Oswalds have we raised? How many are we raising right now? And how many more will we raise under HEW's new regulations?

The answer truly rests with Congress, and with this committee.

DAY CARE ELIGIBILITY SLASHED

(By Jerome W. Mondesire)

Approximately 1,000 families throughout the state will lose day care services as a result of strict new federal regulations, the Maryland Social Services Administration announced yesterday.

This cut represents 31 per cent of the 3,340 families now using day care services which are supported by federal and state funds. The number of children expected to be eliminated is 1,462.

The real impact of these drastic cuts has not yet filtered down to the individuals directly affected. According to high ranking state welfare officials, none of those families facing termination has been notified.

RULES EFFECTIVE JULY 1

Geraldine Aronin, assistant director for program planning and evaluation, said the department expected to begin notifying families about the cutoff within the next two weeks. She said the agency must move quickly since the rules become effective July 1.

Under the new rules, published in the Federal Register by the Department of Health, Education and Welfare last month, day care for children "must be" only for children who are mentally retarded, where the child's mother is incapacitated due to illness or death, or to allow the child's parents to work or accept job training.

This is a radical departure from past procedures, which allowed parents to place their children in state supported centers with very few restrictions for relatively nominal fees. More than 4,000 Maryland children are now enrolled in day care centers across the state.

At the Homestead-Montebello center, in the 3000 block Hillen road, for example, 90 children between the ages of 3 and 5 remain there from about 9 A.M. to 5 P.M. daily. Average fees for the parents are between $1 and $4 weekly.

The center plans to drop 14 children.

The children receive three meals each day and education. The parents of most of the children place them in the center while at work. Without this service, they would be forced to hire a babysitter which could easily siphon off a large chunk of their earnings.

In addition, the new rules now provide free day care for families with incomes up to 150 per cent of their state's poverty level. Families with incomes between 150 per cent and 233 per cent will be required to pay for day care on a sliding scale to be fixed by each state, subject to HEW approval.

Families with incomes above 33 per cent of their state's poverty level will now have to pay the full cost of day care. In Maryland, the poverty level listed by Health, Education, and Welfare is $2,400, meaning a family of four will have to pay part of the day care cost when its income reaches $3,600 and all of the bill when its income rises to $5,600.

Although the regulations do not curtail day care services for welfare recipients, they do limit them to those who either have been on welfare within the last six months (formers) or to those who might become recipients within the next three months (potentials).

Under the current arrangement, "formers" are defined as persons who have been on welfare within the last three years and "potentials" are those who could go on welfare within five years. Those persons who do not meet these new requirements can no longer receive subsidized day care.

"It is a combination of all of these changes which has led to the cutback," said Barbara Schuyler Haas, chief of the division of day care for the Baltimore Department of Social Services.

"But it is the new income criteria which hurts the most," Mrs. Haas added quickly. "Those Families whose incomes are above the maximum level allowed for their category cannot receive day care under any circumstances."

Under the present system, a family of four did not have to begin paying for day care until its income reached $5,000. Which is $1,400 more than the level fixed under the new rules.

According to Mrs. Haas, the regulations would be a more "drastic blow" to those "single parent families with one or two children."

She explained that of the 521 Baltimore families who will lose day care, almost 70 per cent of them are from homes in which a mother is supporting one or two young children.

"These are the very mothers for which day care has meant the opportunity to go off welfare and find a job. But now these women will have to find some other alternative," she added.

Under the present system, a mother supporting a home with two children had to begin to pay some day care costs when her income reached $4,150. The new rules make her begin paying when her income reaches $3,012 and all of the cost when her income reaches $4,680.

According to city welfare officials, day care costs for each child in a large center costs an average of $8 a day and $70 a month for children placed in the homes of private individuals.

The state's day care programs last year cost approximately $7 million, of which 75 per cent was federal dollars administered by HEW. More than 50 per cent of the children enrolled are black.

MARYLAND COMMITTEE FOR THE DAY CARE OF CHILDREN, INC., 5801 SMITH AVENUE, BALTIMORE, MARYLAND 21209

FOR YOUR INFORMATION, MAY 10, 1973

New Regulations affecting social service programs, including day care services, were published by the Department of Health, Education and Welfare on May 1, 1973. They will take effect July 1, as published.

The Senate Finance Committee is now holding hearings on the effects of the New Regulations. In response to questioning May 7, Secretary Weinberger stated that the Regulations could still be amended to conform with Congressional recommendations.

Although an improvement over the Proposed Regulations published February 16, the New Regulations are still restrictive when compared with Current Regulations.

CURRENT REGULATIONS, JUNE 1969	PROPOSED REGULATIONS, FEBRUARY 16, 1973	NEW REGULATIONS, MAY 1, 1973
Child care provided must be suitable for the individual child, and the caretaker relative must be involved in the selection of the child care source to be used.	No comparable provisions.	No comparable provisions.
Progress is required in development of varied child care sources so as to give parents a choice in the care of their children.	No comparable provisions.	No comparable provisions.
Eligibility for services: may be provided to former recipients if they have received aid *within the past two years.*	Services may be provided to former recipients only if they received aid *within the past 3 months and only to complete the provision of services while they were still recipients (or applicants).*	Same as proposed regulations.
Potential eligibility criteria: likely to become recipients within 5 years; or	Likely to need assistance within 6 months as shown by meeting all of these criteria: income not more than 33⅓ percent above cash assistance payment level in the State; have a specific problem which will result in dependence upon cash assistance if not corrected by the provision of the service.	Same as Proposed Regulations, except 50% above cash assistance payment. (Additionally, families with incomes up to 233⅓ percent of the AFDC assistance standard for partially subsidized child care services.)
In kind resources or private funds donated to welfare agency could be used in claiming 3 to 1 match.	Eliminated use of in-kind or private funds.	Essentially the same as former regulations.
It is mandatory that day care be provided if it enables a mother to work or to receive training that will prepare her for employment.	Child care an optional service; may only be provided in the absence of another family member who can provide adequate care, and only for the purpose of enabling caretaker relatives to accept employment or training or to receive needed services.	Child care an optional service; may only be provided in the absence of another family member who can provide adequate care and only for the purpose of enabling caretaker relatives to accept employment or training or because of the death, absence from the home, or incapacity of the mother. Child care may also be provided for eligible children who are mentally retarded.
Goals—"to maintain and strengthen family life, foster child development and achieve permanent and adequate compensated employment."	Goals for which services may be given restricted to "self-support" and "self-sufficiency".	Same as Proposed Regulations.

IN SUMMARY

It had been estimated that nearly 50% of children currently in publicly supported day care services would become ineligible under the February 16, Regulations. The State Department of Employment and Social Services has estimated that the new Regulations would provide a reprieve for *only* 10% to 20% of these families. For example, a family of four (4) with an income under $3,600 a year would be eligible for free day care services; between $3,600 and $5,600 a year, a sliding scale would go into effect. At $5,601 there would be no assistance. Child care services would cost a minimum of $2,000 if 2 children need day care, reducing the income to the poverty level.

Secretary Weinberger has stated that the purpose of the New Regulations is to limit services only to the poor and not to extend them to the middle class. Between the two is a group who are not on welfare, but are trying to be self sufficient and to support themselves. These families, with marginal incomes, are the ones who would be deeply affected. Just above the poverty line, but not "middle class" in income, these families cannot pay rising costs for rent, food and other essentials. Many will be forced by these regulations to stop working and to accept welfare assistance.

Concerned citizens need to continue to be

vocal in order to preserve the quality of Day Care Services.

CUMBERLAND, MD.,
June 6, 1973.

Hon. CHARLES MCC. MATHIAS, Jr.
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: The enclosed report is in response to your letter of May 11 requesting information about the impact of the new social services regulations and the effect they will have on programs in Allegany County.

Your request and our reply was discussed at a recent meeting of the Allegany County Board of Social Services. Board Members were very interested in this report and, if you are in agreement, would like to make copies available to Senator J. Glenn Beall and Congressman Goodloe Byron.

We are very appreciative for your continuing interest and concern for our disadvantaged citizens.

Sincerely yours,
Miss ETHEL WILDERMAN,
Director.

NEW SOCIAL SERVICES REGULATIONS—HEW

Our reaction to the new Health, Education and Welfare regulations governing support for social services programs is one of both extreme alarm and disappointment. Over the years we have perceived the role of our agency as being the hub of social services in our community. We have seen changes, in recent years, in policy and regulations governing social services which have, in effect, reinforced this role. Separation of services from eligibility and the broadening of eligibility requirements to include potentially eligibles are two major policy changes which had given us the opportunity to expand and improve our services to those who were potentially eligible for them under the old H.E.W. regulations constitutes a professional commitment on our part not only to this group of people, but also to others with similar backgrounds and problems who may need our services in the future. Now we are forced to renege on this commitment as a result of the limitations placed on federal matching dollars for services to the potentially eligible under the new H.E.W. social service regulations. We know we can only continue to provide social services on a very limited basis to some potentially eligible under the new regulations. We are concerned, however, because the eligibility requirements for this category are so restrictive as to virtually eliminate many who most urgently need them.

Our agency has already experienced the impact of the new regulations. On April 16, 1973 we received a directive from the State Department of Employment and Social Services to discontinue services as follows: to all former and potential adult cases and to refuse to accept any such new cases, and to all former and potential Families with Children cases and to refuse to accept any new cases except (in the words of Title III of the Revenue Sharing legislation) ". . . where the provision of such services is needed (i) in order to enable a member of such child's family to accept or continue in employment or to participate in training such member for employment, or (ii) because of the death, continued absence from the home, or incapacity of the child's mother etc. . . ."

As a result of this directive, we have needed to discontinue Homemaker Service to twelve aged people who were receiving this service on a potentially eligible basis. We are very concerned with this because in many of these cases Homemaker Service was needed in order to prevent institutionalization for these people. We firmly believe the services provided by the homemaker and the social worker helped to sustain many of these people so they could remain in their own home. Should termination of these services result in the need for nursing home care, the cost could be up to a maximum of $510 per month. It is difficult, however, to place only a dollar value on these services in terms of the meaning they have for each person, as institutionalization means a complete uprooting of elderly persons and there is no way to measure the emotional trauma that often results. We have also, due to curtailment, needed to discontinue giving any social service to 84 patients who are already in nursing homes.

We are also in the process of terminating services to potentially eligible AFDC families who are now ineligible as a result of the new HEW social service regulations. Although we feel this group of people desperately need continuing services, we must say to them that we can no longer help. We know from experience that there are low income families in our community not receiving assistance who need our services on a continuing basis in order to sustain themselves. Our inability to respond to requests for services from these families can, in our opinion, have very far reaching negative effects. For some, it may and can mean breakdown of the family to the extent that children may reach the point where they are neglected or deteriorate to the point where foster care is the only answer. Foster Care (at best only a substitute for own-home care) means not only damage to child, parent but cost-wise, foster care (depending upon type of care needed) ranges from $73 (Regular care for child under 6 up to $94 per month for child 12 or over; Special care in a foster home—$98 to $108 per month per child while a Purchase of Care (from a Child Care Facility) can range from $200 to $500 per month, per child, with most facilities now requiring the $500 rate. Purchase of Care is usually always indicated for the child with special problems or the older or adolescent child.

The average family maintained in own home (2 parents and 2 children) would average around $200 per month. (Each additional child would increase total grant to only an average of $24 more per month; another additional child $21 more per month, etc.—)

Same family with 2 children removed from the home and needing foster care could amount to as much as $160 to $1,000 per month (for the 2) depending upon the age and type of care the two children needed. Of course, the parents own needs are still not met as they are not included in this figure as this is representing the cost of foster care only.

As a modest estimate—based on number of cases needed to close recently—(using the upper care rate) we could assume that for example: 14 adults where institutionalization (Skilled Nursing Care) needed could mean a monthly cost of $7,140 as contrast to care in their own home while living in own home, the average grant would approximate only around $96 (slightly more if special diet needed).

If over 20 children needed foster care (Purchase of Care) a year as a result of our inability to continue service, cost could be as much as $10,000 per year.

These are only rough estimates as to possibilities and probabilities but it is likely that above noted costs could exceed anticipations and could well mount annually.

ANNAPOLIS, MD.
May 21, 1973.

Hon. CHARLES MCC. MATHIAS, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: Thank you for your inquiry on the effect in our county of the new social service regulations and for your offer of assistance. We are just beginning to assess the situation and do not yet know what the full impact will be. However, it appears that:

(1) We can get no federal matching to provide any social services for aged, blind and disabled persons who are not public assistance recipients. In any one month we are now serving about 50 of these adults. who have small social security incomes and hence are not on welfare. But they do need help with homemaker service, making new living arrangements, getting medical care, locating relatives, etc. We must now tell them that because they are not on welfare no social worker can help them.

For example, Mr. and Mrs. M must be told that our Homemaker Service to them will cease at once. Mrs. M, 70, was in an auto accident and wears a back and neck brace. She also has cancer, and the doctor says she needs 75% rest. Mr. M also has cancer, suffered a loss of speech due to a stroke, and had a leg amputated in February 1973. He requires therapy once a month while Mrs. M. has therapy four times a week. They have no children or close relatives to help them. The services of the homemaker have enabled them to stay together in their own home. However; because their income of $248 a month is from Social Security rather than public assistance they are not eligible for homemaker service under the new regulations.

(2) We can get no federal matching funds to assist individuals and families to achieve an optimum level of well-being. If a family is receiving AFDC the social worker may only discuss employment and family planning. If she should try to help the couple with a marital problem or counsel their teenage daughter who is becoming promiscuous the social worker's salary will not be eligible for federal matching.

(3) We can no longer get federal matching funds to provide information and referral service to anyone in the community regardless of income. Traditionally the Department of Social Services has been the agency people in trouble turn to for information about community resources available to meet their needs. If the social worker who answers such inquiries does not restrict her service just to recipients of assistance her salary will not be federally matched.

The restrictions of the new regulations combined with the Revenue Sharing Acts limitation of only 10% of our social services to nonrecipients will make it impossible for us to continue the level of service our community has been accustomed to.

You can assist us by supporting H.B. 5626, by insisting that full appropriations be made under Title IVB of the Social Security Act and by pressing HEW to modify these new regulations.

Sincerely yours,
Mrs. ESTHER H. CARPENTER,
Director.

JUNE 5, 1973.

Hon. CHARLES MCC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: This is in response to your letter of May 11, 1973. I am sorry to have delayed in responding. I expect you have heard from others that the changes in the HEW Regulations were somewhat minimal.

The regulations are still so restrictive as to put in jeopardy many of the service programs which have been available not only to assistance recipients but to other low income families. For instance, even under the new regulations we will need to discontinue over 100 families receiving day care through our agency.

We have been providing detailed information to Secretary David Mason with regard to the effects of the regulations as revised. His office should be making this information available to you in the near future.

Sincerely yours,
Mrs. LOUISE R. MAKOFSKY, ACSW,
Director.

PRINCE FREDERICK, MD.,
May 30, 1973.

Hon. CHARLES MCC. MATHIAS, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: Thank you for this opportunity to respond to your letter of May 14, 1973.

For many years, the Department of Social Services has generally labored under a rather poor public image. In most recent years, we have been able to effectively broaden programs and services to those in need and, consequently, in my judgment, have not only improved our image as a whole but more importantly have been able to assist many more people in fulfilling unmet needs, legitimate and vital to their own particular situations.

With the implementation of new Federal guidelines and State policy, the drastic curtailment, or in actuality, the discontinuance of services to all people who do not get direct financial assistance from local Departments of Social Services again results in a deterioration of public confidence in our abilities of performance as a service agency. Resultantly, adequate funds are not appropriated, staff is cut back, vital programs are lost, and a perpetuation of low income poverty level dependent people is continued with little or no means for them to rise above a class the government is trying to reduce.

Simply speaking, many people who do not fit neatly into the categories as defined by the Federal and State governments are forgotten and left to fend for themselves as best they can.

Recently, as directed by the State Department of Social Services, all people who were receiving services from this agency but not getting a money payment were notified that we could no longer continue services and advised them of their right of appeal. Many of these people live in nursing homes and many others are elderly people living in the community with Social Security their only source of income.

Three appeals were heard by our hearings officer last week and as to what impact the changes in current regulations are noticed in our social service efforts, the case situations as presented last week are typical.

The first case involved an 80 year old woman diabetic with heart trouble, high blood pressure and other serious physical handicaps. We had previously supplied her with homemaker services that included transportation to the doctor 15 miles distant, also transportation to the drugstore for medication, assistance with shopping, etc.

The second case involved a 72 year old man with two broken hips. Our services given by homemaker staff involved a situation similar to the above with the exception that his doctor is located approximately 50 miles from here in Washington, D.C. at George Washington Hospital.

The third case concerned a 67 year old woman who is trying to care for her 90 year old mother. Medical transportation, shopping, help with budgeting, etc. are again the essentials involved. Bearing in mind that Calvert County is quite rural with the Health Department, Vocational Rehabilitation, Court House, stores, doctors, etc. located in the central part of the county, I am sure you can appreciate the problems involved.

Yet to be heard from are people in the nursing homes who have no recourse in complaints of care given, no one to take them to the doctor for special examinations, occasional shopping for a new dress, etc., companion service, arranging for their families to visit, helping with discharges, etc.

As of this writing, I am now also advised that there is the probability that para-professional aides (Homemakers and SERVE staff) will not be able to even give supportive services with or for the Protective Service social worker in child neglect or abuse cases, unless those families, too, are on public assistance. This means that maximum supervision, assurance of medical care, transportation for same, etc. will be extremely limited.

I hope that this letter will be most beneficial to you in your efforts to sustain a seemingly forgotten group of citizens. On behalf of this agency and the people we serve, your interest and concern is greatly appreciated.

If I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely yours,

ROBERT L. WALKER,
Supervisor.

CARROLL COUNTY DEPARTMENT
OF SOCIAL SERVICES,
Westminster, Md., June 14, 1973.

Hon. CHARLES MCC. MATHIAS, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: I am responding to your recent letter regarding the impact on the poor by the final Social Service Regulations scheduled to become effective July 1, 1973.

We find that these regulations are extremely punitive and will prevent services from going to many individuals and families that so desperately need Social Services.

In order to fully comment on these cutbacks it would take several letters. Perhaps we can speak to some areas that we feel are the most important.

"The prevention of social problems is preferred to the best treatment of social ills". It has only been since 1968 that public Social Service Agencies have been able to work in the area of preventive social services. The new regulations, by restricting and prohibiting agencies from working with the potentially eligible recipient, will prohibit us from working in the area of preventive Social Services. This factor is perhaps the biggest single set-back that we are faced with in implementing the new regulations. And it is impossible to assess the damage that will be done by eliminating meaningful preventive services.

Although Mr. Wineberger has stated that he has eased the provisions we have found this to be false. A few concessions were made in the actual regulations, however, when implementing the new regulations we find other restrictions that have the same effect. For example the Day Care Regulations were amended to allow working single parent families, mostly headed by a young mother, to continue to use our services. However the income restrictions placed on these parents will eliminate them even though they remain technically eligible for services.

In addition the proposed fee scales price Day Care out of the reach of these mothers who are really struggling to stay off Welfare to provide for their children. These single parent families need our Day Care services to remain employed. There is no reason why Government should not subsidize these families in order for them to be kept off Welfare and otherwise financially independent. It has been our experience that Day Care services have done more to keep mothers off Welfare than any other single social service. We must retain Day Care services as they were under the old regulations and even expand these services. So far we have only dealt with the financial impact of the new regulations concerning Day Care. Of equal importance or perhaps of more importance are the benefits derived by the child experiencing a Day Care Developmental Program. I assure you these benefits are great. Children caught up in poverty cycles must be allowed to utilize Day Care Centers for developmental services. The new regulations prevent poor children from utilizing day care services unless the need is work related. There are a few exceptions in the new regulations but these are of no great significance.

In Carroll County there were 50 per cent of those mothers who were out working every day to keep off Welfare will be prohibited from using our day care services. Many could be forced on Welfare or back on Welfare.

Another area hit hard in our County has been Homemaker Services to the potential recipient, the aging individuals and marginal families.

Carroll County has the highest percentage of persons over 65 of any County in the State of Maryland. We are prohibited by the new regulations and the 90–10 per cent restrictions from providing services to potentials. From continuing services to the aged who are slightly above Public Assistance standards. We have had to cut our homemaker service cases to the aged already. Economically this does not make sense as by utilizing Homemakers on a part-time basis in the home of these elderly sick individuals we have been able to keep many from going into very expensive institutions.

Senator Mathias, I am certain that you are aware of the trauma and hardships experienced by the aged when they are uprooted from their homes, community, families, and friends, and are placed in nursing homes and institutions. I believe that you are sympathetic to the needs of our elderly. I also believe that you feel as I do, that we have an obligation to our elderly to help them live their last years in some semblance of comfort and with dignity. The new regulations will prevent many of our elderly from doing just this.

Legal services have all but been eliminated by the new regulations. Our experience has shown that if legal services are available to the poor many would never become Welfare recipients. Adequate legal services for the poor must be restored. I believe that over a period of time, 10 to 15 years, legal services for the poor will more than pay for itself in dollar terms, not to mention the human benefits that will be derived.

Other specific programs eliminated or severely restricted are, summer camps for poor children, developmental programs for poor children, unmarried parent programs, marriage and family counseling services, and parent-child counseling to name a few.

The new regulations added to the amount of red tape and paperwork. Under the previous regulations if persons or families were eligible for Welfare payments they were also eligible for social services. The new regulations require us to conduct separate and additional service eligibility investigations for Welfare recipients. This is totally unnecessary and adds greatly to the administrative expenses and paper work. This requirement has the effect of negating skilled and experienced service personnel to the role of clerks and paper shufflers.

In summary, the new regulations severely restrict Day Care Services, Homemaker Services, Services to the Potentially Eligible, Services to the Aged slightly above Public Assistance income levels, services such as marriage counseling, parent-child counseling, unmarried parent services, and the many developmental programs for poor children.

The increased paper work required by the new regulations adversely affect the client and the social worker.

We urge you to support legislation such as SB 1220 and the several Bills eliminating the 90–10 per cent of HR 1. We also urge you to do everything possible to delay the July 1st effective date until legislation can be passed to negate the new regulations.

Sincerely yours,

LOWELL T. HAINES, ACSW,
Director.

CHARLES COUNTY DEPARTMENT OF
SOCIAL SERVICES,
La Plata, Md., June 4, 1973.

Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: The Charles County Department of Social Services deems it important to reply to your letter of May 11, 1973 regarding the April 26th Federal regulations. With the advent of the Federal regulations all agency services have been affected, some to a greater degree than others. The following are indicative of how we have had to effectuate changes in our services:

Legal Services were being provided to those persons in the community that meet the eligibility requirements for a medical card. We must now deny the requests being received from this segment of the community. No longer can they receive needed legal assistance for such matters as consumer-contract difficulties, domestic affairs, housing problems, etc.

We can no longer provide services to former and/or potentially eligible Adults and Families with Children, nor can we under the new guidelines accept any new cases in these categories. During the past thirty days we have had to terminate our services to 30 of 321 families. Services were also terminated for 22 of 124 Adults.

The SERVE I staff has had to discontinue their services to non-public assistance cases and persons eligible for a medical card. This service was meeting an acute need within our rural county for transportation to community and medical resources. The well-being of many persons can be directly attributed to services provided through the SERVE I project. Because of the resulting cutbacks, it is felt that the SERVE positions are most vulnerable. The abolishment of these positions will see persons who have found an alternative to the "welfare rolls" once again forced back into the financial dependency of public assistance.

Homemaker Service has been ceased to all persons who do not receive public assistance. Those cases terminated have most directly affected the elderly—those who with their social security incomes teeter on the borderline of eligibility for public assistance. Those requests coming from the community must now be denied.

During the past several years the Social Services staff has developed much skill in working with low income families. This skill has prevented many families from needing financial assistance and has improved family life and increased the employment potential of their children. Limiting Social Services to only recipients of public assistance deprives many people of the skilled assistance developed at the expense of Federal and State dollars. It may be noted that studies have shown that Social Services to potential recipients yield a greater economic return on dollars spent.

We have just started a number of Services during the past few years, these Services are just beginning to be beneficial both to clients and the community. Continuous "on again"—"off again" approaches to helping people not only create false hope for the "hopeless" but also extremely increase the Administrative costs of "tooling and re-tooling" of programs and personnel.

We feel that the present Federal Curtailment of Services will cause many honest people in need to suffer and will cause those families and/or individuals who could have been helped and want to be helped to be forced toward public assistance and will cause our community to lose much of the productive results of effective social services.

Finally, you may be able to help with another matter: with all of the cuts in services and in spite of the available Revenue Sharing Funds increasing local revenue, our Food Stamp Program faces the immediate threat of termination due to very inadequate local appropriation of Administrative Funds.

We reasonably estimated a need of $70,000 to administer our 1.6 million dollar volume of food stamp sales. We received only $32,000 for F.Y. '74. Our current cost of operation is over $45,000. The Federal-locally funded arrangement just is not working.

Thank you for your active interest. If we can be of any further assistance, please contact us.

Very truly yours,
B. L. ROBINSON,
Director.

CECIL COUNTY DEPARTMENT
OF SOCIAL SERVICES,
Elkton, Md., May 23, 1973.

Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: Thank you for your letter of May 11, 1973 and most of all, thank you for your interest in how the H.E.W. Regulations are affecting the agency.

Our concern is that the new regulations will curtail even more the preventive services that have been almost terminated by the 90%-10% features of the Revenue Sharing law. To what degree this will be true, we will not know until our Social Services Administration decides how the regulations will be implemented in Maryland.

As you know, it is so much more effective to try to prevent problems than to handle the situation after family or individual breakdown has occurred, to say nothing of what prevention means to the total community. As matters now stand we can do very little about providing preventative services to clients, and therefore to the community. This concerns us greatly.

Any legislation to revise this curtailment would mean much to the people of the State of Maryland. Senate Bill 1220, HR. 3819, HR 5-626 through 5-629, if passed, would serve this purpose.

We urge you to support these bills.

Sincerely yours,
Mrs. LOUISE H. GILLIAM,
Acting Director.

GARRETT COUNTY DEPARTMENT
OF SOCIAL SERVICES,
Oakland, Md., June 11, 1973.

CHARLES McC. MATHIAS, Jr.,
U.S. Senator,
Washington, D.C.

DEAR SENATOR MATHIAS: This is in reply to your recent letter asking for our comments regarding the effects of Federal cut-backs on social services programs.

Services to persons receiving some levels of nursing care, who do not receive a monthly personal allowance check from this agency, have been closed for service as a result of the recent changes. These persons are usually residents of nursing homes and we had their cases open for service to help them with letter writing, locating relatives, protecting their interests, and visiting occasionally so that they had some contact with the world outside the nursing home.

Our homemaker service to adults and to families was reduced because several families and adults did not meet the Federal requirements.

Services to single parents, other than family planning, are no longer available to non-public assistance cases.

All services to families with children who qualified for service in the past because they were either former recipients or were potentially eligible for assistance, are discontinued now.

The Project Serve staff aides are no longer allowed to perform useful and meaningful services to non-public assistance cases.

It is somewhat difficult at this moment to know what the total effect of these cuts in services will be. Certainly, those who have been dropped have been hurt. Those who will come to us in the future that we must turn away will not understand why we cannot help them. Explaining that a particular set of circumstances keeps one from receiving a service while his neighbor might qualify for the same service because he receives Federal money, will not solve the first man's problem. In all likelihood, he is a marginal wage earner, but keeping off public assistance, and contributing his tax dollar to make the service available to his neighbor.

Most of our staff members have had years of experience performing services for persons in need. Several employees have earned Masters Degrees in Social Work. Today we find ourselves overcome with forms, calculations, records, and most of all, justifying our very existence to the Federal Government. No matter how automated our world becomes, it will always take social workers to sit down with a troubled individual, sort out his problems, and help him to take the necessary steps to attain his goal.

It appears that the professionally trained social worker with his special knowledge about service to people is being challenged to prove that what he does is worth spending the money for. We are being asked to show in dollars and cents what the benefit of a particular service will be. Who knows how to predict the cash value of getting a sick child to a medical center for evaluation? How can one tell what it means to a young mentally retarded man to learn to read when he has never been able to do that in his twenty-some years of life?

Service to people has taken a back seat to statistical accounting and it will spawn a dehumanizing condition that no one will be able to justify if it continues.

Sincerely yours,
W. PERRY SHAFFER.
Supervisor of Services.

KENT COUNTY DEPARTMENT OF
SOCIAL SERVICES,
Chestertown, Md., May 31, 1973.

Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR MR. MATHIAS: I appreciate your interest in having my reactions as to how the new regulations governing federal support for social services programs will affect our County. I have delayed responding to your letter until I had a better understanding of the regulations and how Maryland will use the 10 percent available for services to non-recipients of public assistance.

Presently all services to two groups of non-recipients, our Adult Services and Services to Families With Children have been terminated except to those people receiving assistance grants. The 10 percent available for non-recipients is entirely used up with our Protective Services to Children and Foster Care Programs. This means that, although technically under the new regulations we could offer services to those in the two former groups who were potentially eligible for assistance, there are not funds to do this. It means that we have had to discontinue such services as: homemaker or transportation to aged or disabled people whose income is barely adequate to meet the very low assistance standards in this State. Many of them have medical care cards and buy Food Stamps but are still not eligible for services. People in intermediate care homes often need services but are not eligible unless they are receiving a money grant from us.

The discontinuance of services to Families With Children who are not receiving a grant means that we cannot offer to the low income family (usually with a single parent) the opportunity to have help in getting to and using the resources that are available to deal with health, child care, housing, employment or training and family functioning problems

that exist. It appears that the absence of these services is already showing up in the increased number of Protective Services referrals we are receiving from the community. At that point, we can give service, but it seems unfortunate that the situation has to get so bad that suspected neglect is reported before the service is available.

We do not have a Day Care Center program in this small rural County so we have not felt the impact of the loss of some of these services that larger communities have experienced. This does not mean, however, that we do not need adequate Day Care Services for many children. The families are scattered and day care here usually is done by relatives or neighbors—sometimes in very inadequate situations. We have a few licensed Day Care homes, the Department of Health is working on licensing a few specialized Day Care Centers.

The discontinuance of Legal Aid except in relation to employment makes our recent Judicare Program of almost no use to the relatively small number of people who have used this service.

My personal opinion is that the services that this Department renders should be available to anyone in the County who needs and requests them in the same way the services of the Health Department are available to County residents. If the applicant for such services can afford to pay for them he should be charged a fee on a sliding scale dependent on his income. The arbitrary discontinuance of service to people because they are not receiving a public assistance grant is not meeting the community's needs, particularly in a County such as Kent where there is no private agency performing these functions.

I would like to write you later when the full impact of the new regulations have become effective and I have more specific knowledge of the effect of the curtailment of some of the programs.

Sincerely,

Mrs. Margaret W. Herring,
Director.

Somerset County Department of Social Services,
Princess Anne, Md., May 21, 1973.

Re Federal regulations governing support for social services.

Hon. Charles McC. Mathias, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Mathias: Thank you for your interest in the effects of the reduction of Services to the people of Somerset County.

We are a rural county without private agencies to offer services to people. For many years we have been the social agency meeting the needs of the people of this county. For lack of other resources perhaps we have tried to offer more in service to people than is true in other areas. We believe that the services that we have offered have been important to the health and well being of people.

The present restrictions affect us in the following way:

(1) We are no longer able to offer services to those people in nursing homes who do not receive a direct money payment from us. This meant the closing of fifty-seven cases. The kinds of services that we had provided have included work to establish an auxiliary group to be interested in the total needs of the nursing home. Through work with this group it has been possible to furnish color television for the patients and furnishing for one patio for use in Summer.

Direct work with the nursing home patients has been to provide contacts with relatives, work toward planning for care when nursing home is not needed and transportation by Aides to dentist and ophthalmologists.

(2) Single Parent Service is no longer available to young persons who are not recipients of assistance. This needed counselling service has been available to all until this time. Twelve cases had to be closed. Referrals had come to us from Health Department and from School Guidance counsellors. There is no other agency offering this service.

(3) Service is no longer available to persons, not recipients of Federal categories of assistance. This has meant that for persons dependent upon Social Security Benefits who are recipients of Food Stamps and Medical Assistance, we cannot continue services. Most often these services had been to help with home making, transport to grocery shop and to doctor's offices and to help to find better housing. All of these services are important. For many elderly or ill persons who live alone they have seemed essential, but unfortunately they are no longer possible.

We want to thank you again for all your efforts in behalf of the needs of the people of Maryland.

Very sincerely yours,

Miss Elizabeth W. Hall,
Director.

Washington County Department of Social Services,
Hagerstown, Md., May 30, 1973.

Hon. Charles McC. Mathias, Jr.,
Senate Office Building,
Washington, D.C.

Dear Senator Mathias: Thank you for your letter of May 8th in which you asked for reactions to the new regulations governing federal support for social service programs.

The regulations are extremely complex. Much administrative time will need to be spent in securing interpretations of what the regulations mean. Staffs will then need to be trained. There is not sufficient time allotted to put the regulations into effect. They continue to be very punitive in their whole thrust, in that they are geared to reducing social services because of the requirement of a social service plan for each individual.

We are particularly distressed in Washington County that we have had to stop rendering social services to patients in nursing homes whose care is paid for from Medicaid. There are in excess of 350 patients in nursing homes in Washington County. We can expect the number of patients will increase significantly during the next year. For example, Avalon Manor in Hagerstown is building a large addition. We have had to remove three workers whose job it was to visit the patients to help in planning for their care and in developing meaningful contacts with relatives and friends.

These workers administered to the social service needs of sick and lonely people who are set apart from the community. We are trying to maintain a program of volunteers to visit and help with the social service needs of some of the patients. However, it is wrong to expect that unskilled volunteers will be able to skillfully serve a patient who manifests great emotional problems about dying or to handle any of the other personal problems that arise. We are fearful that the lack of social services for such persons may lead to abuses. The history of nursing care facilities throughout the United States is filled with instances of abuses developing and I feel that society owes something to these people so they will not be taken advantage of.

I am taking the liberty of including a copy of a letter which all Directors in Maryland received regarding the impact of the new social service regulations on Day Care in Maryland. I think this information is as complete as you can get for the total State.

I hope this gives you some information you can use in bringing about a more realistic approach to the funding of social services through federal sources.

Very truly yours,

Francis J. Connolly,
Director.

Worcester County Department of Social Services,
Snow Hill, Md., May 21, 1973.

Hon. Charles McC. Mathias, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Mathias: Your letter of concern about the impact of changes in current regulations in Social Services is greatly appreciated. At the time the regulations were first publicized, I prepared a letter to Congressman William O. Mills showing the effects of the regulations on our current program. I am enclosing a copy of that letter and will be glad to elaborate further should you have any questions.

Again may I thank you for your concern and continuing interest and efforts in assisting this department in its attempts to offer services to the constituents of this state.

Very truly yours,

Baine Yates, ACSW,
Director.

April 12, 1973.

Hon. William O. Mills,
House of Representatives,
Washington, D.C.

Dear Congressman Mills: Thank you for your interest and response to our telegram regarding the proposed Social Services regulations. At that time we requested an extension of hearing dates so that we could adequately assess the effects on our individual agencies. While this was not granted, it is still subject to change and pending legislation by Congressman Reid and Senator Mondale, could affect the total outcome.

Since requesting your aid, I have been able to determine how the proposed regulations will affect our county office. As you are aware, this county is extremely small with a total population of approximately 25,000, of which approximately 1,000 persons are receiving financial aid, and approximately 2,000 persons are enrolled in the Medical Assistance Program. Under the proposed regulations, it would be impossible for us to offer any services to the 2,000 persons receiving Medical Assistance and those under the poverty scale. Service to those receiving financial aid would be so sharply curtailed and lost under the mountains of red tape proposed that actual direct client services would nearly cease to exist.

Already we have had to cease services to those patients in nursing homes. This service was mandated in the Medicare Act of 1966 and in 1972 this mandate was rescinded, though left to the discrepancy of the states. Under the new HEW regulations this will not even be optional. For this county only 30 people are covered, but these aged are powerless and voiceless, not only to their rights but even to the outside as most of them have no family. To offer services to them we have had to allocate ½ of a worker's time which would amount to approximately $5,000.00 per year, of which the federal government assists the state on a 75–25% matching. Without this matching these services cease to exist.

Protective Services for children are mandated by state law and by HEW regulations. However, the HEW regulations will limit up to 10% of our cases being potentially eligible. Yet 95% of our cases are not assistance families. Again one-quarter of a worker's time is allocated in our small department under the same matching as previously noted. Again regulations or provisions put a limit on the number of requests we will receive for the protection of children due to funding available.

Adoption Service could cease to exist as there is no provision allowed for the licensing and approving of homes. Yet over the past few years we have placed children so that they would not grow up in foster care, a great expense to them emotionally, and greater expense to the taxpayer financially ($90 per month for 18 years). Without licensing of adoptive homes while leaving

children in foster care, the families who wish to adopt have no choice but to return to a black market adoption, neither of which is desirable.

Foster Care of children would only receive federal financial assistance if the child is court committed, yet there are many cases requiring temporary care due to family illness which makes this point unwise and unnecessary. At the same time there is a backlog in Juvenile Court which involves several weeks waiting before a hearing can be scheduled. Any services during this time would not be eligible for federal funding. It would also require frequent court hearings as temporary foster care would require a cout order for placement and the return of the child. While foster care services is mandated for AFDC children, again there is no service allowed for the family, particularly for home finding. How do you place a child in a foster home unless you have a foster home? Again this agency uses approximately one-half of a worker's time for this service of home finding and meets the federal matching as above noted.

Family Day Care service is first and foremost a means of licensing homes to meet state standards for the child and again there will be no federal assistance in licensing procedures. Yet WIN requires some provision for the care of children for a WIN enrolled mother during school vacation, holidays, sickness, etc. Without homes how do we offer this? Then the AFDC mother who is able to leave the welfare roll, with supplementary Day Care, is only eligible for such for three months after which she loses her potentially eligible status. At this point she is faced with usually one choice; to quit her job in order to take care of her children. To support them she must go back on assistance. Federal Day Care licensing involves approximately one-half of a worker's time in this agency.

Services to the AFDC mother will be limited toward planning, toward being self supporting and self sufficient. At no time could we offer her counselling in how to raise her children in the absence of the father. Yet 95% of the work received for services in this area comes from mothers who want help in handling their children's problems with school, peer groups, etc. If the regulation can not be extended, we will not be able to offer this valuable service. Again only one-half of a worker's time is allocated for this service.

Recently we initiated Homemaker Service which is designed to teach home management and child care to AFDC mothers and to offer outreach service to the ill and disabled. Many of the families are under the poverty scale but just barely above Welfare payment level, thus they would no longer be eligible for Homemaker Service. We would no longer be able to offer them assistance in obtaining groceries, meeting medical appointments and at times having a hot meal twice a week. One-half of our Homemaker's time we had planned to use for those potentially eligible.

Nearly all of our Single Parent Service cases would be classified as potentially eligible. For these persons we could offer services under the new regulations for three months. However, pregnancy is usually a nine month proposition. Service to these clients is also limited to the 10% potentially eligible clients. Must we ignore the request of a 14 year old pregnant girl for help in solving perhaps the biggest problem in her life?

Already legal services to the potentially eligible have ceased, and under the proposed regulations legal services to all of our eligible clients will cease to exist. Thus 10% of our county's population will not have access to defense of their legal rights in any civil matter.

I am very concerned about the curtailment of these services to the residents of this county and constituents of your district. While they are not great in number, the assisting of one client in any of the above programs can merely not have the price tag attached to the value of a human being suffering. Yet to continue offering these services at present levels would mean, state and county would have to absorb the present 75% federal matching of four worker's salaries which would approximate an additional $30,000.00 of state and county monies, on already strained budgets. We have heard rumors of a Social Services Revenue Sharing Act, designed to assist state and local governments in meeting this additional cost. Such a bill has not been presented and I believe, if an on-going program bill, would have little chance of passage. It would likely take a year or longer for such to become in effect. In the meantime what happens to my clients? While I realize it is not in your party's legislation, I must ask that you seriously consider support of Congressman Reid's bill in lieu of any change of Mr. Weinberger's proposed new federal regulations.

Thank you for your consideration of this rather wordy response to your offer to ascertain that programs supporting federal assistance will not demise.

Very truly yours,

HAINA YATES, ADSW,
Director.

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

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

The PRESIDING OFFICER. All time has now been yielded back.

The question is on agreeing to part 3 of the committee amendment.

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 Montana (Mr. MANSFIELD) is necessarily absent.

I further announce that the Senator from Iowa (Mr. CLARK) and the Senator from Delaware (Mr. BIDEN) are 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 Iowa (Mr. CLARK) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) is necessarily absent.

The result was announced—yeas 84, nays 11, as follows:

[No. 241 Leg.]

YEAS—84

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

NAYS—11

Bennett	Griffin	Scott, Va.
Cotton	Hansen	Thurmond
Fannin	Helms	Tower
Goldwater	Saxbe	

NOT VOTING—5

Biden	Clark	Stennis
Brock	Mansfield	

So part 3 of the committee's amendment was agreed to.

The PRESIDING OFFICER. The question now is on part 4 of the committee amendment.

Mr. LONG. Mr. President, this matter has been voted upon before, and I think it would be just as well to vote on this matter by voice vote. I see no point in debating it. This is the expenditure ceiling and impoundment procedure measure that was passed by the Senate previously, known as the Ervin amendment. The Senate voted for it before. I have no doubt that the Senate would vote for it again. I assume that Senators will all maintain their positions which have been expressed previously.

I yield back the remainder of my time.

Mr. BENNETT. I yield back the remainder of my time.

The PRESIDING OFFICER. All the time having been yielded back, the question is on agreeing part 4 of the committee amendment.

Part 4 of the committee amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Illinois (Mr. PERCY), I ask unanimous consent that Hannah MCCORMACK be allowed the privilege of the floor during the debate on H.R. 8410.

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

Mr. HANSEN. Mr. President, I ask unanimous consent that my legislative aide, Marilyn Koester, may be on the floor during the voting.

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

The Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I ask unanimous consent that my staff assistant William Heckman be permitted access to the floor through the vote on the ADR amendment, which I will propose shortly.

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

Mr. ROBERT C. BYRD. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 28, between lines 5 and 6, insert the following:

PART G—PROVISIONS RELATING TO CHILD'S SOCIAL SECURITY INSURANCE BENEFITS

BENEFITS FOR ADOPTED CHILDREN

SEC. 260. (a) Section 202(d)(8)(D) of the Social Security Act is amended by striking out clause (ii) thereof.

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

Mr. ROBERT C. BYRD. Mr. President, this amendment will correct an inequitable provision under the existing social security laws.

Under this existing provision, children who are adopted by disabled, or old age, beneficiaries of the Social Security Act, are denied child's insurance benefits. If the child enters the adoptive home after the wage earner has become entitled to benefits, the child can never qualify for children's benefits, as part of the adopting wage earner's family. This is true, even if the child is not born until after the wage earner has become eligible for benefits.

I am advised that my amendment will primarily benefit grandparents, who have adopted or will adopt a child to provide that child with a stable home environment, after the child has been either born out of wedlock, or into an extremely troubled or unstable home situation. In such cases the grandparents are ineligible for public welfare for support of the child, and in most cases, the only source of support for the child is the adopting parents' social security check.

Mr. President, I do not believe that when grandparents, or others display the good faith and human kindness in trying to provide a child with a stable environment and a decent home life, that they should be penalized by this provision of the Social Security Act which denies them the children's benefits to which they would otherwise be entitled. Therefore, I urge passage of my amendment, which will, if enacted, rectify this situation.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Gail Falk, staff attorney, Legal Aid Society of Charleston, Charleston, W. Va., dated March 21, 1973, calling attention to this inequitable provision.

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

LEGAL AID SOCIETY OF CHARLESTON,
Charleston, W. Va., March 21, 1973.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: I am writing to call to your attention an extremely inequitable provision of the Social Security Act.

Under the Social Security Act as it presently stands, a deserving group of children are denied child's insurance benefits. These are children who are adopted by disabled or old age beneficiaries of the Social Security Act. If a child enters the adoptive home after the wage earner has become entitled to benefits, the child can never qualify for child's benefits as part of the adopting wage earner's family. This is true even if the child is not born until after the wage earner has become eligible for benefits. This is true even though natural children born to the wage earner after the wage earner has qualified for benefits are entitled to child's insurance benefits.

Our office recently handled the case of Marion P. Morris, of Whitesville, West Virginia, which challenged the validity of this provision. The enclosed news story, from the *Raleigh Register*, will provide you with further details concerning the Morris family's situation. The U.S. Supreme Court recently declined to review the constitutionality of the Act's discrimination against adopted children, thereby leaving to Congress the burden of correcting this discrimination provision.

Prior to, and in the course of litigating the *Morris* case, our office has been contacted by numerous other West Virginia families who have suffered from the same provision. In addition we have received inquiries from attorneys in other states who also represent clients discriminated against by the same gap in the law. In virtually all the cases of which we have knowledge, the adopting parents are grandparents. In these cases an inquiry will show that the grandparents adopted the child in order to provide him or her with a stable home environment after the child had been born out of wedlock, or into an extremely troubled or unstable home situation.

Furthermore, in these cases the grandparents became ineligible to receive public welfare for the support of the child after adopting the child. Thus, in most cases, the only source of support for the child is the adopting parents' Social Security check.

The only argument ever advanced in the course of Congressional debate in defense of this discrimination is that providing benefits might encourage adoptions for the purpose of "abuse." However, in the many court cases which have challenged the arbitrariness of this provision, no question has ever been raised as to the good faith and humane motivation of the families who have been denied benefits for their adopted children.

The situation of discrimination against certain deserving adopted children could readily be corrected by repealing Section 202(d)(8), or by repealing Subsection 202(d)(8)(D)(ii), of the Social Security Act.

If our office can be of assistance by providing further information on this matter of concern to many of our clients, please do not hesitate to contact us.

Very truly yours,
GAIL FALK, *Staff Attorney.*

Mr. ROBERT C. BYRD. Mr. President, I have discussed this amendment with the distinguished manager of the bill and the distinguished ranking member of the committee. I hope that the managers will accept my amendment.

Mr. LONG. Mr. President, I believe that the kind of case mentioned by the Senator has considerable merit. Last year as part of H.R. 1, Congress enacted important amendments liberalizing the treatment of adopted children under the social security program. Perhaps we should have done more. I am willing to take the Senator's amendment to conference to see what we can work out.

Mr. ROBERT C. BYRD. I thank the Senator. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

At the end of section 212 of the bill, add the following new subsection:

(f) The provisions of subsection (a)(1) shall not be applicable in the case of any State—

(1) the Constitution of which contains provisions which make it impossible for such State to enter into and commence carrying out (on January 1, 1974) an agreement referred to in subsection (a), and

(2) the Attorney General (or other appropriate State official) of which has, prior to July 1, 1973, made a finding that the State Constitution of such State contains limitations which prevent such State from making supplemental payments of the type described in section 1616 of the Social Security Act.

Mr. BENTSEN. First, Mr. President, I wish to commend the chairman of the Finance Committee for his work in bringing this measure to the floor with important protections for the aged, blind, and disabled appended to it.

When we passed H.R. 1 last year, we included the important concept of a national minimum income for some of our elderly and handicapped citizens, replacing the variety of State programs and assistance levels then available to them. However, we have discovered in the intervening time that, for a number of reasons, thousands of these Americans could conceivably suffer cuts in income when the new SSI program goes into effect next January. Under the leadership of the chairman, the Finance Committee has substantially corrected that situation.

The amendment I offer today is directed at a special problem in my own State, which threatens to remove several thousand persons from medicaid coverage if it is not adopted.

Texas may well be unique among the States in having constitutional problems in appropriating State funds, without Federal matching, to care for the needs of the aged, blind, and disabled. A provision of the Texas constitution says that no State funds can be appropriated for these purposes unless they are "matchable out of Federal funds." The State attorney general's office has interpreted that provision to mean that the SSI payments, which go directly to individuals and not to the State, cannot qualify as Federal matching money.

Most of this problem was alleviated when the committee raised the minimum income levels from $130 to $140 for single persons and from $195 to $210 for couples. Over 60,000 persons in my State who would have suffered will now have no reduction in benefits.

But even at the new levels, some problems remain. Some 13,000–14,000 citizens have incomes above the new payment levels, and they will have to be removed from eligibility for medicaid if the bill passes in its present form. That is because section 212 of this bill makes it mandatory for States to supplement Federal SSI payments on the penalty of losing all their Federal medicaid money if they do not do so.

Of course, that would offer my State a most painful choice. It could, on the one hand, remove these 13,000 to 14,000 from eligibility for medicaid because their income is somewhat above the payment levels and the State is constitutionally prohibited from supplementing up to the new levels, or could keep them on the medicaid rolls and it would then have to forfeit all of the Federal money it receives for all medicaid recipients in the State.

I should add that the State legislature has attempted to remedy this situation. The State legislature attempted to appropriate State funds to take care of some of the needs of people made eligible by the SSI program; however, they were told by the Attorney General's office that such a move would not be constitutional, since no Federal funds would be matching State appropriations.

I should also add that there was an attempt to repeal this entire section of the State constitution, but it failed in an election in May 1971. In addition, there will be a constitutional convention next year, and the State director of public welfare is convinced that this provision then will be removed from State law.

My amendment is very narrowly drawn and says that the mandatory supplementation provisions of this bill will not apply to a State, but only on two very limited conditions: first, the State constitutional prohibition against supplementation must have been in existence prior to July 1, 1973, and second, the State Attorney General or other appropriate State officials must have made a finding prior to July 1, 1973 that State supplemental payments would not be possible because of the constitutional limitations.

I believe there are sufficient safeguards in this amendment to insure that there will be no abuses. My State has made efforts to overcome this constitutional difficulty, and I know that in the next year serious efforts will be made to correct it.

I am hopeful that the manager of the bill can accept this amendment.

Mr. BENNETT. Mr. President, I was part of the discussion of this problem in committee. I recognize it is an unusual and unique problem affecting only the State of Texas and it is caused by the constitution of the State of Texas. I am delighted that the Senator from Texas found a solution for the problem.

However, for the record I have to say that I think this is not the bill on which the amendment should be offered. I realize that it will be agreed to, but to keep my amateur status I will have to indicate my opposition to the amendment on this bill, although I do support the proposal.

Mr. LONG. Mr. President, in view of the statement of the Senator from Texas, I do not think there will be more than a relatively small number of cases of individuals in Texas who would have difficulty complying with the committee amendment. Unfortunately, Texas has an unusual constitutional problem that does not exist in other parts of the country. As much as the legislature and the Governor of the State might wish to take the appropriate action, it looks as though it may be beyond the capacity of the State legislature and the Governor to provide the cooperation this bill would require in complying with the mandate the Senate has adopted. Unless we can work out a better answer, I think we should agree to the amendment, which will solve the problem.

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

Mr. BENTSEN. I thank the Senator. I yield back the remainder of my time.

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

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

At the end of the bill, add the following new title:

TITLE V—LIMITATION OF USE ON APPROPRIATED FUNDS

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR COMBAT ACTIVITIES IN CAMBODIA AND LAOS

SEC. 501. No funds heretofore or hereafter appropriated under any Act of Congress may be obligated or expended to support directly or indirectly combat activities in, over, or from off the shores of Cambodia or in or over Laos by United States forces.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, this amendment is similar to and almost identical to an amendment passed by the Senate 3 weeks ago.

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

Mr. EAGLETON. I yield.

Mr. LONG. I hope the Senator will not take an extended period of time to debate the amendment. I am confident the Senate will vote the same as they did when the Senator offered the amendment on the other bill that was vetoed.

Mr. EAGLETON. I will be brief but I think we should have the Record complete.

Mr. LONG. I agree with the Senator.

Mr. EAGLETON. I thank the Senator. I will be brief and to the point.

Mr. President, this amendment is similar to and almost identical to an amendment which the Senate passed on May 31 by a vote of 63 to 19, which would prohibit the use of any Federal funds to conduct or continue combat activities in Cambodia and Laos. This amendment was subsequently agreed to and accepted by the House and became part of the Supplemental Appropriation bill. The Supplemental Appropriation bill was vetoed this morning by the President, and the override on the veto failed by 241 to override and 173 to sustain.

Mr. President, I think it is necessary that we persist in this endeavor to bring this unconstitutional and unauthorized war to a termination. There is no authority whatsoever for what is being done in Cambodia today, and being done with a vengeance.

Since May 31, the date on which the original Eagleton amendment was adopted by the Senate, the following has occurred in Cambodia with respect to American casualties:

June 5, OV–10 downed, one killed in action.

June 15, HH–53 helicopter downed, three killed, two rescued.

June 16, F–4 downed, two missing in action.

Totals killed in Cambodia and Laos to date: six killed in action, four missing in action in Cambodia. Eight killed in action in Laos.

Mr. President, more tonnage has been dropped on Cambodia since the ceasefire was signed on January 27 than was dropped over North Vietnam in the last 3 years. Think of that, in less than half a year we have dropped more bombs on Cambodia and inflicted more devastation than we had in the entire 3 prior years with respect to North Vietnam.

I think President Nixon's veto of the supplemental appropriation bill hinged mainly on the inclusion of the anti-bombing amendment. He clearly wishes to continue a bombing policy which is improvident, unwise, and goes directly to the heart of the constitutional process. It is our authority—Congress' authority—to determine how, when, and where we go to war; and in the supplemental appropriation bill there was a clear determination by the Congress, both Houses concurring therein, that we not go to war in Cambodia and that we not continue the bombing any longer.

If the President wishes to persist in his methodology, we must persist in ours. Because if we give in on this issue, we will then, by indirection, in my judgment, be sanctioning a war in Cambodia.

If we succumb and delete the anti-bombing amendment from any appropriate vehicle by which it may reach the President's desk, if we recede from that amendment, we are tacitly and affirmatively going along with this war—a war which has no basis in logic or in law.

As far as I am concerned, this amendment has the same legitimacy, the same compelling need, the same efficacy today in June as it had on May 31 when it was originally adopted.

Unless there is something further, I am prepared to yield back my time.

The PRESIDING OFFICER. Who yields time?

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

Earlier in the debate I pointed out that there was grave doubt about the ability of the House to tack this kind of amendment on a bill which, under the Constitution, has to originate in the House. I think there will be a point of order automatically made against this kind of amendment on this bill, regardless of its merits. I expect to vote against it for that reason, but I want the record to show that this is a revenue bill, subject to the constitutional point which requires revenue measures to originate in the House. Moreover, this amendment is completely outside the jurisdiction of the Ways and Means Committee, with which we must go to conference, and I think

they have no choice but to reject it on that ground.

Now I would like to yield to the Senator from New Mexico.

The PRESIDING OFFICER. Does the Senator yield on the bill itself?

Mr. BENNETT. This is on the amendment.

Will the Senator from Louisiana yield the Senator some time?

Mr. LONG. How much time does the Senator from New Mexico want? Is 5 minutes sufficient?

Mr. DOMENICI. Five minutes will do.

Mr. LONG. I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say to the distinguished Senator from Missouri that a few days ago, when the so-called Eagleton amendment came before the Senate, I supported it, and I want the Senator from Missouri to know, and I want all Senators to know, that I support the concept of prohibiting air action in Cambodia. However, I will not support the amendment today because I think it is inappropriate that it be attached to this measure. In fact, I doubt that I will support any measure other than those that the Finance Committee itself considered as part of this bill.

They have brought before us amendments that are truly relevant. Because we have no budgetary procedures in Congress, they saw fit to remind us of deficiencies in social security, supplemental income, and the like, and I support them because they are either from trust funds or they are relevant to the subject matter. But the pending amendment, it seems to me, is not relevant. I do hope that other Senators will be heard today and that we will not, on this issue, confront the President on this matter and then blame him when the social programs that are part of the bill are not carried out.

So I want the distinguished Senator to know I have not changed my mind with reference to my support as a U.S. Senator, but I have changed my mind with reference to where that amendment should find itself in the procedures of the Senate.

As a freshman, I came here thinking we could really vote on priorities in the Senate, and I find myself voting on many, many billions of dollars added on to a debt limitation bill.

I have just one last thought. Unless and until we devise a method for budgeting, we are not going to have priorities that are meaningful. They will be nothing more than opportunities for those of us who disagree to say if we had a priority system we would vote differently; we would not agree with the President; we would not agree with the Senator from Louisiana. But I doubt that we really want a budgetary system which permits us to vote fair and square, up and down, on priorities. That is the second point that concerns me about today's deliberations.

However, so the Senator from Missouri will understand, I have not changed my mind on this issue, but I will not support his amendment today.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I do not think there is anything to be gained by further debate. I do think we would do well to move ahead with the business before the Senate. I hope other Senators will not ask for any more time on this question. I suggest we get to a vote. I am prepared to yield back my time.

Mr. EAGLETON. Mr. President, I just have a few brief remarks, and then I am prepared to yield back my time, as well.

The Senator from New Mexico raised the question of the propriety of offering this amendment to this particular bill which raises the debt ceiling. So far as I am concerned, I can think of nothing more appropriate to attach to this bill than an amendment which would prohibit the unauthorized, illegal, and expensive bombing of Cambodia—and in this context I stress the word "expensive."

Last year almost $10 billion was spent for combat activities and support in Southeast Asia. Had that expenditure not occurred, perhaps we would not be here today attempting to raise the debt ceiling. Annual expenditures as a result of the bombing in Cambodia are estimated at over a billion dollars. That expense will add greatly to the debt ceiling of our Government. So I think it is relevant to be debating at the present time an amendment to prohibit such bombing—when we are discussing priorities and how much further we should go into debt—when we are going further into debt as a result of a bloody war in which we should never have been involved and from which we should immediately extricate ourselves.

So far as I am concerned, I can think of no more appropriate bill to attach an amendment to discontinue the bombing in Cambodia.

I am prepared to yield back my time.

Mr. LONG. Mr. President, I was engaged in other matters at the time the majority leader made his statement. I asked that his remarks be available to me, So I could read them.

He said:

> If the veto is upheld, it would be our intention—I repeat—to attach similar Cambodian riders to every other possible piece of legislation, and we will do it, because under the Constitution only the Congress has been given the war-making power, not the President, and Congress has spoken.

I assume that represents the views of the leadership on this side of the aisle. It is not my view, but it is the view of the majority leadership and a majority of the Senate. If that is what the Senate wants to do, they have the votes to do it.

Mr. EAGLETON. Mr. President, before the Senator yields back his time, I am informed that the Senator from South Dakota (Mr. McGOVERN) wishes me to yield some time to him to speak on the measure. I yield 5 minutes to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I simply want to take a moment to commend the Senator from Missouri for again offering what I think is an eminently sensible proposal at a time when we are talking about the fiscal integrity of the Government. We should make one more effort in the Senate to put an end to this senseless bombing of Cambodia and Laos.

I remember years ago when former Senator Wayne Morse of Oregon, used to speak in this Chamber against the war that he frequently referred to the war as the Johnson war or the McNamara war. It used to bother me that anyone's name was attached to the war at a time when we could not get a majority in Congress to announce its opposition to it. However, all of that is finished now. The Senate has previously voted by a majority of 63 to 19 in favor of terminating any further military operations on or over Cambodia and Laos—more than a 3-to-1 margin on the part of the Senate to bring this bombing to an end.

Now, to whatever extent the Senate has any constitutional responsibility or right to advise and consent on matters of foreign policy, the Senate has made it very clear on a bipartisan basis that it does not support the continued aerial bombardment of these little countries of Cambodia and Laos. We have made that overwhelmingly clear.

The Eagleton amendment, when offered in committee, was passed by a vote of 24 to 0. There was not one single dissenting vote against the amendment. Not one Democrat and not one Republican voted against the amendment.

People who at an earlier time had supported the war now make it unequivocally clear that they oppose it. We want to have all of the war operations terminated.

The amendment previously passed on the floor of the Senate by a vote of 63 to 19. In the House of Representatives it passed by a strong majority. The record is clear. An overwhelming majority of both the House and Senate voted to have the war terminated and to have the bombing over Cambodia and Laos ended.

As far as I am concerned, from here on out, this is Nixon's war. This is a Presidential war being conducted in clear defiance of the overwhelming expression of opinion of the Members of the Congress of the United States.

I think that the President and the American people ought to understand from here on out where the responsibility lies.

I thank the Senator for yielding me time.

Mr. EAGLETON. Mr. President, I thank the Senator from South Dakota.

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

Mr. TOWER. Mr. President, will the Senator from Louisiana yield me time on the bill?

Mr. LONG. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I know how the vote is going to come out. And I know that no amount of debate is going to change the result. However, I will not sit here and hear this referred to as Nixon's war. He had nothing to do with getting the war started. He has extricated us from Southeast Asia with honor. He is trying to assure now that we will have peace and that we do have a position from which to negotiate serious observations in compliance with the terms of the Paris accords.

I therefore think that the Eagleton amendment is something that is calcu-

lated to perpetuate the war in Southeast Asia. Let us call it what it is, and that is Congress' war.

Mr. LONG. Mr. President, I yield 3 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 3 minutes.

Mr. THURMOND. Mr. President, the war in Vietnam has gone on for 10 years. President Nixon finally brought the war to an end. Why should we crowd him now? Why should we not give him a little elbow room in which to negotiate?

The President just threw one bill back here, the second supplemental appropriations bill, on the ground that it contained the Cambodia amendment.

If we wish to play politics with the bill, this is the way to do it. If we want to be patient, that is one thing. However, if we want to play around and try to put the President on the spot, that is another thing. If we want to take the position that we are determined to do anything to make our point, this is the right approach.

I hope the Senate will vote down the amendment. It has no place in the bill. It can do nothing but extend the war 10 years after 50,000 men have been killed and 300,000 men have been wounded.

We should reject the amendment and let them negotiate and enforce the cease-fire which President Nixon has brought about. We would then be doing the country a great service. Any other course, in my judgment, can result only in great detriment to the welfare of the Nation.

Mr. EAGLETON. Mr. President, just briefly, I wish to point out that this is most certainly, Nixon's war in Cambodia. It is a war that is being waged by the President without the authority of Congress. It is heating up. It is not toning down. This is not something that is going to go away in the twilight hours.

I read to the Senate earlier the casualties that have occurred in Cambodia. As we prolong the consideration of this measure, the casualties will surely increase.

Yesterday, for the first time, Russian surface-to-air, heat-seeking missiles were reported as being used against our planes over Cambodia. With the risks that we are taking every day, there is a higher risk of death and a risk, that we will add to the list of missing in action, and possibly even incur new prisoners of war. It is a risk that Congress can refuse to take. If the President does not see fit to do it, it is our responsibility to determine how and when we should get out of this war.

We exercise that responsibility in a reasonable manner in cutting off funds for Cambodia. We must continue to do everything in our power so that our voices and pleas will be heeded.

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

Mr. LONG. Mr. President, let me say that I recognize that this amendment, if agreed to, means a very serious confrontation between the legislative and the executive branches, assuming that the House sees fit to agree to the amendment, as it did on a previous occasion.

If it is a confrontation that the sponsors of the amendment are seeking, this is the right bill to which to attach it. I will not vote for the amendment. If it is agreed to, I will do my duty and will support it in conference and will see to it that the House has an opportunity to vote on it.

Mr. President, I heard what the majority leader has said. I thought I heard him correctly, and I respect the right of those who feel that there should be a confrontation on a bill that the President either has to sign or dire consequences will otherwise flow therefrom. If that is what they want to do, this is the bill.

I recognize that any Senator has a right to offer an amendment. He is certainly privileged to offer it to this bill.

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 Missouri. 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 Delaware (Mr. BIDEN) and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) is necessarily absent.

The result was announced—yeas 67, nays 29, as follows:

[No. 242 Leg.]

YEAS—67

Abourezk	Gurney	Moss
Aiken	Hart	Muskie
Bayh	Hartke	Nelson
Bentsen	Haskell	Nunn
Bible	Hatfield	Packwood
Brooke	Hathaway	Pastore
Burdick	Hollings	Pearson
Byrd, Harry F., Jr.	Huddleston	Pell
Byrd, Robert C.	Hughes	Percy
Cannon	Humphrey	Proxmire
Case	Inouye	Randolph
Chiles	Javits	Ribicoff
Church	Johnston	Schweiker
Cook	Kennedy	Stafford
Cotton	Magnuson	Stevens
Cranston	Mansfield	Stevenson
Dominick	Mathias	Symington
Eagleton	McClure	Talmadge
Ervin	McGovern	Tunney
Fong	McIntyre	Weicker
Fulbright	Metcalf	Williams
Gravel	Mondale	Young
	Montoya	

NAYS—29

Allen	Eastland	McGee
Baker	Fannin	Roth
Bartlett	Goldwater	Saxbe
Beall	Griffin	Scott, Pa.
Bellmon	Hansen	Scott, Va.
Bennett	Helms	Sparkman
Buckley	Hruska	Taft
Curtis	Jackson	Thurmond
Dole	Long	Tower
Domenici	McClellan	

NOT VOTING—4

Biden	Clark	Stennis
Brock		

So Mr. EAGLETON's amendment was agreed to.

Mr. EAGLETON. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. CASE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I have an amendment at the desk, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill add a new title VI as follows:

SEC. 1. The non-trust fund expenditures of the government of the United States during each fiscal year shall not exceed its revenues from all non-trust sources for such year.

SEC. 2. (a) The President shall submit a budget pursuant to the Budget and Accounting Act of 1921, as amended, in which non-trust fund expenditures do not exceed non-trust fund revenues for each fiscal year.

(b) The provisions of this section may be adjusted to reflect any additional revenues of the government received during a fiscal year resulting from tax legislation enacted after the submission of the budget for such fiscal year.

Mr. HELMS. Mr. President, my amendment is vitally important if Congress and the administration are ever going to come to grips with inflation and the certainty of a larger and more ominous national debt in the future if we do not act.

Simply put, my amendment would provide that the Federal Government shall not spend Federal funds for nontrust fund items in excess of the revenues collected by the Federal Government from nontrust fund sources during any given fiscal year.

My amendment also requires that the President submit a budget in which nontrust fund receipts and expenditures are strictly balanced.

If we are serious about controlling inflation and eliminating the prospect of an increasing national debt in the future, then the Senate must face up to the facts regarding deficit spending in the last 4 fiscal years.

From the beginning of fiscal year 1970 through the end of the current fiscal year 1973, the Federal funds area of the unified budget has run a deficit during just these 4 fiscal years, of approximately $100 billion. Senators know that the unified budget procedure tends to obscure the real impact of deficit Federal spending by offsetting trust fund surpluses against nontrust fund deficits. This $100 billion deficit in the last 4 fiscal years has meant that the Federal Government was spending $100 billion more for the operation of Government than it was receiving in Federal taxes. Truly, no Senator can ignore the impact that this $100 billion in deficit Federal spending has had upon our economy in these past 4 years. It has been the primary stimulus for the inflation which has seriously eroded the purchasing power of the dollar both at home and abroad.

We have heard a good deal of rhetoric

over the need to do something about inflation. We have heard the same rhetoric over the need to control and limit the national debt. Well, Mr. President, here is an opportunity to take some action, to face up to the danger that reckless Federal spending has presented to our Nation's economic security, and to protect against future increases in the national debt.

Controls on wages and prices and every other element in our economy will never stop inflation because these controls are not directed at the cause of inflation. There is no question that it will be difficult for some Senators to commit themselves to a balanced Federal budget, because such a budget will necessitate cutting down substantially on Federal expenditures. But I am firmly convinced that an overwhelming majority of the American people would rather see the Government spend less, thereby stopping this inflation, than to see larger and larger Federal deficits being spent with money that inflation has made practically worthless.

I urge Senators to consider this amendment seriously and to adopt it. I am convinced that it is the first step down the road toward eliminating inflation and establishing a firm foundation for a stable economy in this country.

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

The yeas and nays were ordered.

Mr. LONG. Mr. President, if I understand the amendment correctly—and I have been studying it with a capable staff—it would require a $19 billion cut in the Federal funds deficit that exists in the present budget. In other words, the Senator from North Carolina is seeking to eliminate the deficit on a Federal funds basis. That means a $19 billion cut in spending, which would be more than balancing the budget; it would be more than resisting inflation.

While the Senator, of course, has very practical objectives, a sudden shift of Federal activities of the size of a $19 billion cut in Federal funds outlays, would, I think, cause such a drastic shock on the economy that it really could not be sustained.

When we have a $16 billion surplus in our trust fund, if the Federal Government is running a $16 billion deficit in Federal funds, it still is not the Federal Government that is creating inflation, because the Federal Government pulls as much money out of circulation as it is putting back into circulation.

This matter was studied by President Johnson's administration, which concluded that we ought to have a unified budget. It was studied by the administration of Richard Nixon, and that administration concluded that the unified budget was the best way to handle these accounts.

If we look at the budget action that would have to be considered, we would realize that what the Senator has in mind would be absolutely devastating, when one realizes that there are many things that cannot be cut. We cannot cut the interest on the national debt. We cannot cut social security payments. In the controllable items, such as public works, a great many national defense items, education programs, programs that are most meaningful to the American people, and to their communities, it would mean a cut of some $20 billion. Controllable programs cannot be cut that much and continue to be effective.

Mr. President, the Senator has a very noble purpose in mind. I think, however, that, if anyone had the experience of living with this, he would have a great deal of explaining to do to his constituents—when they saw what was recommended by the President, passed by the House, and what the Senate then proposed to do, if the Senate could prevail on it.

I hope the amendment will not be agreed to. I think the consequences would be a shock, with an adverse reaction to the country when the people felt the impact of it. A sharp recession or depression sponsored by the Federal Government would be such that the Senate would regret the day it adopted the amendment, if indeed we were able to prevail upon the House and the administration to implement it.

At this point, Mr. BARTLETT assumed the chair.

Mr. DOMENICI. Mr. President, will the Senator yield 2 minutes?

Mr. LONG. I control the time in opposition.

Mr. DOMENICI. I am on the Senator's side.

Mr. LONG. Then I yield the Senator 2 minutes.

Mr. DOMENICI. Let me say to the distinguished Senator from North Carolina that I am not going to do this before every vote, but it seems to me that in fairness, since I rose to object to the Cambodian proposal as being irrelevant and putting the Senate on the spot—having to vote on something that really was not germane to what the Committee on Finance had considered—I raise the same issue with respect to the Senator's amendment.

I must tell the distinguished Senator, as I said to the Senator from Missouri, that, although I agree in concept with the premise—as I did with the Senator from Missouri's proposal about Cambodia—I will not vote for it, in spite of the fact that I am beginning to think there is no other way to control the budget, no orderly way. There really is no priority way to vote, because we do not want such a system here.

I still cannot vote for a $19 billion cut, as explained by the distinguished Senator from Louisiana. I do not think it is relevant to the issue. I compliment the Senator on the thesis and the theory, but I want him to know why I will not vote for his amendment on this occasion.

Mr. HELMS. I thank the distinguished Senator, my seatmate and my friend.

Mr. FANNIN. Mr. President, will the Senator from Louisiana yield? I am going to vote with the Senator from Louisiana, although I am in agreement with the Senator from North Carolina.

Mr. LONG. I yield.

Mr. FANNIN. Mr. President, I commend the distinguished Senator from North Carolina for offering this amendment. I agree wholeheartedly that it is needed to bring fiscal responsibility to the Federal Government.

Moreover, I am the author of a proposed constitutional amendment which would require a balanced budget over a 2-year fiscal period. However, I believe that such an amendment would not be proper on this bill.

While I fully agree with the substance of the amendment, I cannot support it at this time. I regret that I cannot do so. I hope that at a future time, if it is not agreed to now, I can join the Senator on such an amendment.

I thank the distinguished Senator from Louisiana for yielding.

Mr. BENNETT. Mr. President, will the Senator yield me 2 minutes?

Mr. LONG. I yield.

Mr. BENNETT. Mr President, I think that all of us in the Senate should remember that a process has begun through which Congress can take back the responsibility for budget priorities. The Joint Study Committee was set up. It studied the problem. It recommended a program. We are waiting for Senator METCALF's subcommittee and for the House to act on the recommended procedure. I think that when a procedure is approved and Congress begins to accept the responsibility for responsible budgetary action, many of these rather harsh proposals will become unnecessary.

I am in agreement with the objective of the Senator, that we must get control of the budgetary process and that we must begin to move toward a balanced budget. But, in the spirit of this particular bill, I think an attempt to approach it from the point of view suggested by the Senator is not the right way to do it. So, while I am in support of his objective, I must oppose the amendment, both in view of the procedure that is already on its way through Congress and the limitations of this particular bill.

The PRESIDING OFFICER (Mr. DOMENICI). Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from North Carolina yield?

Mr. HELMS. I yield to the distinguished Senator from Virginia such time as he desires.

Mr. HARRY F. BYRD, JR. I favor the concept of the amendment offered by the distinguished Senator from North Carolina. It seems to me that sooner or later—the sooner the better—we must get to a balanced budget concept. We cannot continue these huge deficits. The people of this country are suffering by this. The huge deficits are the major cause for the tremendous inflation that is eating so heavily into the paycheck of the workingman and the grocery dollar of every housewife.

The amendment offered by the able Senator from North Carolina is directed toward helping solve the question of rampaging inflation.

The Senator from Louisiana made a very important point, I think, and one that must be considered. I wonder whether the Senator from North Carolina would consider modifying his proposal to make it effective with the fiscal year 1975—that is, with the new budget which will be submitted by the admin-

istration next January. Work on that budget is already in progress—that is, the fiscal 1975 budget. I would think that might be the appropriate time—some 7 or 8 months before the budget is submitted—to mandate the administration to send in a balanced budget. If we apply this proposal to the present budget, it has already been under consideration now for almost 6 months and a new fiscal year begins next week, and I think it might be awkward to start it that quickly.

If the Senator would be willing to modify his amendment, to mandate the administration to bring in a balanced budget when it submits its new budget in January, it seems to me that that would be a very helpful and desirable proposal.

Mr. HELMS. I say to the distinguished Senator from Virginia that not only will I accept that modification, but also, that I am grateful to him for proposing it.

Let me say that I am not naive. I realize that we cannot cure in a day what has been done to the people of this country in a generation. On the other hand, we have to start somewhere, sometime. If we in this Chamber and those in the House of Representatives do not start to get this economy in shape, then I am reminded, I say to the distinguished Senator from Wyoming, of a friend of mine who was riding in a taxicab past the Archives Building one night recently.

On the front of the Archives Building is an inscription which reads, "What is past is prologue." My friend inquired of the taxicab driver: "What does that mean?"

The taxi driver replied: "You ain't seen nothin' yet."

What I am saying, Mr. President, is that if we do not act to get the Federal budget in line, whether it is today, effective June 30 of this year, or effective June 30 of next year, "we ain't seen nothin' yet," in terms of the further inflation we will be forcing the people of America to endure.

I happily accept the Senator's suggested modification.

The PRESIDING OFFICER. Unanimous consent is necessary to modify the amendment.

Mr. HELMS. I ask unanimous consent that my amendment be so modified.

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

Will the Senator from North Carolina please send the modification to the desk? By unanimous consent, it is not part of the amendment, but it is needed at the desk.

Mr. LONG. Mr. President, I do not object, but I would like to know what the modification is.

Mr. HARRY F. BYRD, JR. If the Senator will yield, it is to make the effective date effective with the presentation of the new budget, the fiscal 1975 budget, instead of the 1974 budget, to which the able Senator from Louisiana addressed himself.

The modified amendment is as follows:

At the end of the bill add a new title VI as follows:

SEC. 1. Beginning with the fiscal year 1975, the non-trust fund expenditures of the government of the United States during each fiscal year shall not exceed its revenues from all non-trust sources for such year.

SEC. 2. (a) Beginning with the fiscal year 1975, the President shall submit a budget pursuant to the Budget and Accounting Act of 1921, as amended, in which non-trust fund expenditures do not exceed non-trust fund revenues for each fiscal year.

(b) The provisions of this section may be adjusted to reflect any additional revenues of the government received during a fiscal year resulting from tax legislation enacted after the submission of the budget for such fiscal year.

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. Mr. President, will the distinguished Senator yield?

Mr. LONG. How much time does the Senator desire?

Mr. HANSEN. Three minutes.

Mr. LONG. I yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, it occurs to me that the philosophy, the idea behind the amendment presently before the Senate is a very valid one. I was wondering if my good friend, the Senator from North Carolina, would consider asking unanimous consent that the order for the yeas and nays be vacated and that he withdraw his amendment.

My purpose in doing that is that a lot of us agree with him and if he does go ahead with the vote I shall vote to support the amendment. But I think it would be deceptive on our part to have the RECORD go out from here today that there are very few votes in favor of the idea in back of this amendment, and that is precisely what will happen if we go forward with the vote, because as Senators know, there are a number of people who agree with the Senator from North Carolina who have very valid reasons not to support his amendment now.

So I ask my good friend, the Senator from North Carolina, if he would consider asking unanimous consent to having vacated the order for the yeas and nays and then to withdraw his amendment. I would hope he would do that. I have no further purpose in talking longer. I think we will through this colloquy reveal to the public generally a little better idea of the feeling in the Senate than would go out if we pursued the vote on the amndment.

The PRESIDING OFFICER. Did the Senator from North Carolina hear the question of the Senator from Wyoming?

Mr. HELMS. Yes. And I appreciate the Senator's position and suggestion.

Really, Mr. President, all I hoped to do this afternoon was to make a point, and the apparently unanimous agreement with that point gives me hope that we can get going on a duty that has been too long delayed.

Under the circumstances, I do not wish to delay the Senate on this day and I ask unanimous consent to withdraw my request for the yeas and nays.

The PRESIDING OFFICER. The Senator can proceed by seeking unanimous consent for the withdrawal of his amendment and the yeas and nays, and the request, therefore, would be vitiated.

Mr. HELMS. That is my unanimous consent request.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is withdrawn.

Mr. HELMS. I thank the Senate for its attention on a matter of extreme importance at this time.

AMENDMENT NO. 254

Mr. KENNEDY. Mr. President, I call up my amendment No. 254. I ask unanimous consent that the Senator from New Jersey (Mr. CASE), the Senator from Utah (Mr. MOSS), and the Senator from South Dakota (Mr. MCGOVERN), may be added as cosponsors.

The PRESIDING OFFICER. The amendments 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, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill, add the following new section:

RENT FREEZE

SEC. . The Economic Stabilization Act of 1970 is amended by inserting after section 203 the following new section:

"§ 203A. Rent freeze

"Immediately upon the enactment of this section, the President shall issue an order freezing rents, in accordance with the same provisions of Executive Order 11723, dated June 13, 1973, which apply to certain prices for commodities and services."

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

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I yield for an unanimous consent request to the distinguished Senator from Maine.

Mr. MUSKIE. I thank the Senator.

Mr. President, I ask unanimous consent that Reed Feldman of my staff be granted the privilege of the floor during the consideration of this bill.

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

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

Mr. KENNEDY. I yield.

Mr. TOWER. Mr. President, I ask unanimous consent that Mike Burns, chief minority counsel, Committee on Banking, Housing and Urban Affairs, be present during the debate on the amendment of the Senator from Massachusetts.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Parker be permitted the privilege of the floor during the consideration of this amendment.

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

Mr. LONG. Mr. President, I ask unanimous consent that clerks and administrative assistants of Senators may be granted the privilege of the floor while this measure is being debated and voted. We have had so many requests made that I think it would be discriminating

not to have the privilege extended to every Senator for his aide to be on the floor, if he cares to do so.

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

Mr. KENNEDY. I thank the Senator. I would be glad to enter into a time agreement with the manager of the bill on amendment No. 254 for 20 minutes, 10 minutes to a side, if the Senator from Louisiana wishes to do so.

Mr. LONG. I would be happy to do so.

Mr. KENNEDY. Or we can proceed.

Mr. LONG. Why not make it 15 minutes on each side?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this is a very simple amendment. What it does is to add rents to the list of items covered by the otherwise comprehensive 60-day price freeze announced 2 weeks ago by the President. Under the amendment, rents would be frozen at no higher levels than those charged during the first 8 days of June.

Rents are a traditional and significant component of the Consumer Price Index, and it makes no sense to impose a comprehensive price freeze and then exempt rents.

It is no more difficult to impose a freeze on rents than to freeze a myriad of other prices in the overall Consumer Price Index. In fairness to the consumer, the logic of the current freeze compels a freeze on rents, along with all the other commodities and services whose prices are frozen.

The two rationales used by the administration to exclude rents from the freeze are no longer operative. First, the administration argued that the rent component of the CPI had shown steady improvement under phase III, with the monthly increases declining from 0.6 in February to 0.5 in March to 0.4 in April. But the May figure of 0.5, announced last week, ended that tidy progression.

Second, the administration argued that rent is a local problem and should be left to local action. But, as every Senator's mail shows, rent inflation is also a national problem, an endemic part of our sick national economy.

Rents were included in the August 1971 freeze, and the case for freezing rents is stronger today that it was in 1971, since rents have been rising 30 percent more rapidly under phase III than they rose during the comparable period before the 1971 freeze.

Mr. President, I ask unanimous consent to have printed in the RECORD a table relating to this matter.

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

RENT COMPONENT OF CONSUMER PRICE INDEX

	Index	Increase	
		Absolute	Percent annual rate
1971:			
March	113.9	0.3	3.2
April	114.4	.5	5.3
May	114.7	.3	3.1
June	115.2	.5	5.2
July	115.4	0.2	2.1
Total		1.8	3.8
1973:			
January	121.5	.5	5.0
February	122.1	.6	5.9
March	122.6	.5	4.9
April	123.0	.4	3.9
May	123.5	.5	4.9
Total		2.5	5.0

Mr. KENNEDY. Mr. President, if we were to take the 1971 freeze and project it as an annual rate, it would show a 3.8 percent increase for rent for the 5 months preceding that freeze. If we take phase III through May, and project it at an annual rate, the increase would be 5.0 percent. Thus, rents were rising 30 percent more rapidly before the recent freeze than in 1971, when rents were included in the freeze.

Finally, if rents remain exempt from the freeze, landlords will enjoy an unjustified bonus of windfall profits, since the prices of all the goods and services that landlords purchase are covered by the freeze.

Mr. President, for those reasons I hope that rents will be included in the price freeze. I think it is important as far as equity for the American consumer is concerned and I believe it is important in terms of meeting the problems of inflation.

Mr. President, I withhold the remainded of my time.

Mr. TOWER. Mr. President, will the manager of the bill yield to me time in opposition?

Mr. LONG. I yield to the Senator such time as he may require.

Mr. TOWER. Mr. President, rent controls deter the investment of new capital in the construction of and rehabilitation of rental units, and thereby create further rental unit shortages and rent increase pressures; and second, rent controls normally do not allow adequate increases to cover capital and service maintenance and improvement costs, with the result that the quality of the existing rental stock and rental services declines relatively, and and usually absolutely.

The adverse impact of rent controls on rental unit supply and quality is obviously not in the long-run interests of the affected tenants, and it was effectively the committee's judgment that such results should be avoided and other means of alleviating rent increase pressures on low and middle income tenants be explored. The problem is actually one of income transfer, which is a problem normally dealt with by tax-financed, direct governmental transfers to the affected individuals. In the case of rent controls, however, this transfer is made at the expense of the landlord-investor, and the effect of such an income transfer is simply to drive away investment that is badly needed in the rental housing sector.

I am sure that the Banking, Housing and Urban Affairs Committee will soon be reviewing and recommending some revision of the present housing programs and policies of the Federal Government within a short time, which will have the goal of increasing the supply of and the quality of housing stock in this country, and its accessibility to all income groups. The present supply trend in housing units is favorable, with net additions to the Nation's housing stock, after household formations, running around a million per year on the average, not including the half-million mobile homes produced per year. The encouragement of this favorable supply situation, rather than its discouragement with rent controls, would help relieve any rent increase pressures that exist because of low vacancy rates.

The committee also took note of the fact that the Cost of Living Council has evaluated the rent increase situation around the country since phase III went into effect, and has determined that there is no national problem of excessive rent increases. There are a few areas of very tight housing markets, such as the Washington, D.C., area and the Northern New Jersey area, where some increases have been substantial, but for the most part around the country increases have been modest and would be cost-justified under phase II rules.

Any severe local problem of rent increases due to very low rental vacancy rates could be handled, if desired, by state or local authorities, who would be the appropriate authorities to determine whether local priorities are such that long-term investment in rental units should be sacrificed for the short-run cost-of-living restraint represented by rent controls. These authorities would also be the appropriate authorities to consider the alternatives of any special governmental income transfer programs to provide cash relief to affected tenants, in order to avoid the diseconomies resulting from attempting such an income transfer via rent controls.

Finally, the committee recognized that if, for any local or national emergency situation, the administration feels that the reimposition of rent controls locally or nationally is justified, the authority to so impose them still exists in the Act, and the Administration could exercise that authority at any time.

The matter of rent controls came up during the consideration last April of the extension of the Economic Stabilization Act, and in the committee the proposal to add rent controls or to make rent controls mandatory was defeated by a vote of 8 to 8, a tie vote. The matter was, of course, brought up on the floor in the form of an amendment, and the vote in favor of it was 50 to 48.

However, when we went to conference, our bill had added substantially to what the House bill contained. We added much more in the way of strictures and mandate than the House did, but the only significant matter on which the House would not recede on the Senate bill was the matter of rent controls, and the House was adamant on the matter of rent controls and would not recede on that although it receded on almost everything else to the Senate.

Therefore, when we consider the fact that on the floor of the House there were several record votes—I think there were three on the question of rent controls—and rent controls were in each instance defeated decisively in the House, I think it will be recognized this amendment would not get past the House. Of course, not being a germane amendment, I am sure a point of order would prevail against it, but on the merits it should be defeated, in addition to the fact that it is not germane and in addition to the fact that the House would not accept it, and therefore we are engaging in a futile exercise in trying to pass legislation of this kind.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield half a minute further?

Mr. KENNEDY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with respect to the general consent order earlier entered in connection with the allowance of Senators' staffs on the floor, that during the remaining debate on the bill, any Senator who has an amendment pending may have one member of his staff on the floor during the pendency of that amendment.

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

Mr. KENNEDY. Mr. President, in response to the remarks of the Senator from Texas, first of all as to the position of the House of Representatives, there was some justification for the reluctance to accept rent controls as part of the general economic program, since up until May, the increases in the rent index were declining. Now, as the figures for May reveal, there has been a new deterioration in rent. Therefore, in view of this situation, I hope the Senate will accept this amendment, and I am confident that the House will examine it in light of the current upward trend.

Second, with respect to the argument put forth by the Senator from Texas on the prospect of shortages, I would note that the administration rejected similar arguments in 1971, when rents were included in the freeze. These are not new arguments. They have been around for a long period of time. The administration rejected those arguments in 1971, when the freeze was enacted that year. The result was that there was a considerable saving to those who pay rent. Also, the rent freeze was helpful in bringing an additional measure of control over inflation. Those same arguments are justified this afternoon.

I wish the Senator from Texas would explain what changes have taken place between 1971 and 1973 to justify his rejection of the freeze today.

The argument over shortages applies to many products. At the present time, many people in the dairy industry are complaining about the freeze. The same may be true in other areas of application of the freeze. If there is serious hardship, the administration can provide for an exemption for such a case, but there is no justification for an across-the-board exemption of rent. If there were a hardship in a difficult situation over rent, an exemption could be justified under a rent freeze, and the administration could act.

For those reasons, Mr. President, rent as a key item of the consumer price index should be included in the freeze. There are several key items, and rent is one of the items of great importance and significance to the interests of the consumers of the country. If we do not freeze rent, we do not have a comprehensive price freeze.

I would hope that the amendment would be adopted by the Senate.

I am prepared to yield back my time.

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

The Senator from Texas stated that an amendment of this sort was added to a bill out of the Banking, Housing, and Urban Affairs Committee, which has jurisdiction over a matter of this sort; and, on the appropriate bill, the House would not agree to it.

If the House could not be prevailed upon to accept the amendment when it was on the right bill, with the right committee having jurisdiction over it, I would think there would be far less chance of prevailing upon the House to accept it when we put it on a bill to which is not germane. Not only that but we would be in the position of going to conference with a House committee that does not have jurisdiction over the provision which was sponsored by a Senate committee that does not have jurisdiction of it.

I believe we have this bill loaded with enough impediments right now that it is going to be very difficult to enact. I would hope it is not further burdened with measures that will make it very difficult to resolve this problem.

I am sure the Senator feels his amendment would be of much help to a great number of poor and depressed working families, but I do not think it can be achieved in this fashion.

I would hope, Mr. President, that the Senate, if it wishes to try to act again in this regard, would go through the committee that has jurisdiction. If those who do not have jurisdiction cannot enact it, I predict that it would be beyond the power of those who do not have jurisdiction to do so.

I hope that the amendment will be rejected.

Mr. KENNEDY. Mr. President, it will certainly be my intention, if this amendment is agreed to by the Senate, that no lessor shall take retaliatory action against any lessee who is exercising any rights accorded to him under the amendment or under the Economic Stabilization Act.

We certainly do not want to see action taken against any lessee if the amendment is agreed to. The lessor should not retaliate against a lessee who is trying to exercise a right that has been accepted and recognized by the Congress.

That certainly would be my intention as a proponent of the amendment.

Mr. CASE. Mr. President, I appreciate the remarks offered by the Senator from Massachusetts (Mr. KENNEDY) to insure that tenants who have protested illegal rent increases in good faith are not penalized by the continued failure of the Cost of Living Council and its agents to pursue cases of retaliatory eviction and harassment of tenants.

When the phase II economic program, which included rent control, was ended, the Cost of Living Council made no formal written provision in its regulations to protect tenants. Many tenants immediately experienced exorbitant rent increases. Still others were harassed by landlords, and some were evicted, as a result of their efforts to receive just treatment in accordance with the law.

Cases of retaliatory action are, in some areas, still tied up in the courts. Others are under consideration by the Cost of Living Council, which so far has done little to remedy the situation.

On June 4 I wrote to Director of the Cost of Living Council, Dr. John Dunlop, and brought to his attention a case of retaliatory eviction that is pending here in Washington, D.C.

During the phase II economic program Mr. Steven Spingarn protested a rent increase. Subsequently he received an eviction notice. He fought the eviction, and the matter was resolved, not by the Government which had responsibility, but by the local landlord-tenant council.

Mr. Spingarn became quite active in the tenant movement because of his experience. He was especially active after the phase II program was abruptly terminated. As a result of his activity—and particularly as a result of his initial phase II complaint—Mr. Spingarn received another eviction notice which soon will take effect.

The matter has been appealed to the Cost of Living Council. I wrote to Dr. Dunlop and urged him to take action to protect Mr. Spingarn and others similarly situated, as he earlier promised the Council would do. In fact the Council has done nothing to protect tenants.

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

Mr. LONG. 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 Massachusetts. 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 Delaware (Mr. BIDEN) and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "yea."

The result was announced—yeas 47, nays 50, as follows:

[No. 243 Leg.]

YEAS—47

Abourezk	Case	Haskell
Aiken	Chiles	Hathaway
Baker	Church	Huddleston
Bayh	Cranston	Hughes
Bible	Eagleton	Humphrey
Brooke	Fulbright	Inouye
Burdick	Gravel	Jackson
Cannon	Hartke	Javits

Kennedy	Moss	Roth
Magnuson	Muskie	Schweiker
Mansfield	Nelson	Stafford
McGee	Pastore	Stevenson
McGovern	Pearson	Symington
Metcalf	Pell	Tunney
Mondale	Proxmire	Williams
Montoya	Ribicoff	

NAYS—50

Allen	Eastland	McClure
Bartlett	Ervin	McIntyre
Beall	Fannin	Nunn
Bellmon	Fong	Packwood
Bennett	Goldwater	Percy
Bentsen	Griffin	Randolph
Brock	Gurney	Saxbe
Buckley	Hansen	Scott, Pa.
Byrd, Harry F., Jr.	Hart	Scott, Va.
	Hatfield	Sparkman
Byrd, Robert C.	Helms	Stevens
Cook	Hollings	Taft
Cotton	Hruska	Talmadge
Curtis	Johnston	Thurmond
Dole	Long	Tower
Domenici	Mathias	Weicker
Dominick	McClellan	Young

NOT VOTING—3

Biden	Clark	Stennis

So Mr. KENNEDY's amendment was rejected.

AMENDMENT NO. 262

Mr. KENNEDY. Mr. President, I call up my amendment No. 262.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill insert the following:

SEC. . (a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds $30,000."; and

(2) by striking out subsection (c).

(b) The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I offer this amendment on behalf of myself, Senator BAYH, Senator MUSKIE, Senator NELSON, and a number of other Senators whose names are printed on the amendment.

The purpose of the amendment is to strengthen the minimum tax by eliminating the so-called deduction for taxes paid, which has become one of the largest, most notorious and least justified loopholes in the Federal income tax law. On the basis of estimates for the current calendar year, the amendment will generate increased tax revenues totaling $580 million, based on a $330 million increase in individual income tax liability and a $250 million increase in corporate income tax liability.

The minimum tax is the imaginative technique enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that all citizens with substantial income would pay at least some tax on their income, thereby ending the gross tax inequity by which thousands of wealthy taxpayers were able to use the loopholes in existing law to avoid large amounts of taxes they ought to pay, or even to avoid taxes altogether.

In effect, the minimum tax is supposed to be a "bucket under a sieve." It is designed to impose a modest tax on all income that slips otherwise untaxed through the many loopholes in the existing Revenue Code. If the minimum tax fulfills its function, no one with substantial income would be able to avoid paying a fair share of taxes on his income.

Unfortunately, the minimum tax does not adequately fulfill its function. In 1970, the first full year of operation, the revenue yield was a paltry $117 million, compared to an anticipated yield of $290 million when it was enacted in 1969. Thanks to the exemptions and deductions written in at the beginning and in subsequent years, the minimum tax is itself a loophole-ridden tax—minimum in impact as well as name. As such, the minimum tax is the most aptly named provision in the tax laws. Instead of being a "bucket under a sieve," it is instead simply another sieve under the existing sieve.

I call this particular deduction the "Executive Suite" loophole, because it allows highly paid executives to use their large salaries to shelter large amounts of tax preference income against the minimum tax. Surely, simply because a wealthy individual pays taxes on his salary just like everybody else, it does not follow that the taxes he pays should give him free entry to the "loophole club" by allowing him to amass large amounts of sheltered income, free not only from the regular tax, but from the minimum tax as well.

For 1971, the most recent year for which figures are available, $163 million in minimum tax was paid on total reported tax preference income of $6.2 billion, yielding an average effective minimum tax rate of only 2.63 percent, even though the statutory rate is 10 percent.

Further, of the 98,000 individuals who reported tax preferences, 74,000 paid no minimum tax at all, even though they had tax preference income of nearly $4 billion. And, of the remaining 24,000 individuals who actually paid some minimum tax on their preferences totaling more than $2 billion, the minimum tax they paid was at an effective rate of only 4.13 percent. Thus, 75 percent of the individuals, with 36 percent of the total reported tax preference income, escaped the minimum tax altogether.

In large part, the reason for this enormous avoidance of the minimum tax is the deduction allowed for regular taxes paid. Thus, the minimum tax works reasonably well in the case of individuals who pay little or no regular taxes, but it contains a gaping loophole in the case of individuals who pay substantial regular taxes. To me, there is no justification for allowing this loophole in the minimum tax to remain open. Simple tax justice requires that the minimum tax be applicable even-handedly to all preference income. The amendment we are proposing today will achieve that result by eliminating the deduction for taxes paid, and I urge the Senate to approve it.

Mr. President, I ask unanimous consent that an analysis of the amendment may be printed at this point in the RECORD.

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

MINIMUM TAX—KENNEDY-BAYH-NELSON-MUSKIE AMENDMENT 262 TO THE DEBT CEILING BILL

Purpose: Repeal the step in the calculation of the minimum tax which currently allows a deduction for other taxes paid.

Explanation: The minimum tax was enacted by Congress as part of the Tax Reform Act of 1969, in an effort to guarantee that persons with substantial amounts of untaxed income would pay at least a modest tax on that income. As reported by the Finance Committee in 1969, a 5% tax would be paid on income from tax preferences. A floor amendment raised the rate to 10% and added a deduction for regular taxes paid. A 1970 Senate floor amendment allowed a 7-year carry over of the deduction. Under the minimum tax in present law, a person is taxed at the rate of 10% on the sum of his income from tax preferences, less a $30,000 exclusion and less the amount of regular income tax owed, including the carry over.

Amendment No. 262 would eliminate the deduction and carry over for taxes paid, which has allowed large numbers of taxpayers to avoid the minimum tax completely, even though they have large amounts of income from tax loopholes. In practice, the current deduction is an "Executive Suite" loophole, since one of its principal effects is to allow high salaried executives to use the large amount of regular taxes they pay as an offset against income they receive from tax loopholes.

	Example	
A		*B*
Loophole income	$100,000	$100,000
Regular tax on salary	100,000	0
Base for minimum tax	0	100,000
Minimum tax	0	10,000

Individual A, who has $100,000 in income from tax preferences and pays $100,000 in regular taxes on his salary, owes no minimum tax. Individual B, who has $100,000 in income from the same tax preferences, but who pays no regular taxes, owes a minimum tax of $10,000. The minimum tax should operate equally on individuals A and B, yet the deduction for taxes paid gives A an unfair benefit over B. Amendment 262 would equalize the two cases by insuring that A pays a minimum tax on his loophole income. In effect, the amendment requires equal treatment of the rich.

Current operation of minimum tax:

Individuals—In 1971, 24,000 individuals paid $163 million in minimum tax on loophole income of $3.9 billion, for an effective tax rate of 4.1%.

But, 74,000 other individuals paid no minimum tax at all on loophole income of $2.2 billion. Thus, the overall effective rate of the minimum tax on individuals is 2.6%, compared to the statutory rate of 10%.

Corporations—(less precise data available)—In 1970, 6,000 corporations paid $280 million in minimum tax on loophole income of $4.1 billion, for an effective rate of 6.7%. But 75,000 corporations paid no minimum tax at all on loophole income of $1.6 billion. Thus, the overall effective rate of the minimum tax on corporations is about 4.8%.

Revenue Gain from Amendment 262 (1972 figures): $580 million ($330 million from individuals; $250 million from corporations). The distribution of the gain from individuals is:

Adjusted gross income	Returns affected	Increase tax
$0 to $5,000		
$5,000 to $10,000		
$10,000 to $20,000		
$20,000 to $50,000	11,000	$4,000,000
$50,000 to $100,000	22,000	28,000,000
$100,000 and over	30,000	299,000,000
Total	63,000	330,000,000

Major preferences subject to minimum tax—Excess investment interest, accelerated depreciation on real property, accelerated depreciation on personal property subject to a net lease, amortization of certified pollution control facilities, amortization of railroad rolling stock, stock options, reserves for losses on bad debts of financial institutions, depletion, capital gains, and amortization of on-the-job training and child care facilities.

Major preferences not subject to minimum tax—Interest on state and local government bonds, intangible drilling and development expenses, interest and taxes during construction period of real estate, investment credit, gain on property transferred at death, gain on appreciated property given to charity.

Summary—The deduction for taxes paid was added by a Senate floor amendment in 1969, and it is appropriate that it now be repealed by a Senate floor amendment. Previous minimum tax amendments defeated on the Senate floor have also included changes in the tax preferences, in the $30,000 exemption, and in the rate of the minimum tax. Amendment 262 would affect only the deduction for taxes paid, the most flagrant and least justifiable loophole in the minimum tax. The tax has worked reasonably well in the case of persons who pay little or no regular tax, and the Senate should close the loophole that allows those already paying regular taxes to escape the minimum tax.

Mr. KENNEDY. Mr. President, I yield such time as I have remaining to the Senator from Maine.

Mr. MUSKIE. Mr. President, I commend the effort of Senator KENNEDY in introducing this amendment to bring about a much needed reform of the minimum tax. Along with 15 other Senators, I cosponsored this amendment, because I believe that Congress must begin now the difficult process of bringing fairness to our tax code.

Our tax system is sadly replete with unfairness. For instance, even after the minimum tax and other welcome reforms were enacted in the 1969 Tax Reform Act, the Treasury Department acknowledged that 107 persons with earnings over $200,000 paid no 1970 income taxes. And almost 400 persons with incomes over $100,000 that year also avoided Federal income taxes altogether. A few individuals paid no taxes even though they had incomes of more than $1 million.

Our taxes fall hard and heavy on the vast bulk of low- and middle-income Americans, on the men and women whose only source of income is the wage they work for, or the earnings of small family-owned stores, workshops, and farms.

But the tax code too often treats the wealthy more generously. Tax preferences—unexamined and increasingly unjust—have made it possible for a well-to-do minority to pay less than a fair share of the tax burden. The weaknesses of the law have given birth to a myriad of institutionalized tax dodges most of them technically legal, and most of them repugnant to the foundation of our society—that a citizen's contribution to society match his ability to contribute.

I have detailed the workings of unfair provisions in the tax code in statements before the Ways and Means Committee and in statements in this Chamber. I have examined the tax code and introduced legislation to correct many of these inequities—the Tax Reform Act of 1973 (S. 1439) which would raise approximately $18 billion in new Federal revenue in 1974 without increasing the tax burden on low- and middle-income Americans. I have hopes that thorough tax reform, along lines of the bill I have introduced, will finally be enacted by this Congress.

The amendment before us, to strengthen the minimum tax, is a first step. Under current law, the minimum tax applies to nine items of tax preference: First, accelerated depreciation on real property; second, accelerated depreciation on net leased personal property; third, stock options; fourth, depletion allowances; fifth, capital gains; sixth, special amortization of pollution control facilities; seventh, special amortization of railroad rolling stock; eighth, bad debt reserves for banks; and ninth, special amortization for job training and child care facilities. The maximum tax, at a rate of 10 percent, is imposed on these items of preferential income, with three deductions allowed: a $30,000 exclusion; the deduction of all Federal taxes paid in the current year; and the carry-forward of any excess of these Federal tax deductions from the 7 previous years.

The amendment we are considering today would repeal what is perhaps the most illogical and self-defeating of these deductions from the minimum tax: the deduction allowable for "regular" taxes paid. The reason for the minimum tax is that Congress judged that the taxes paid on these preferential items were too low. It makes little sense to allow a further escape from the taxation, under the minimum tax, by allowing an unrelated deduction for taxes paid on normal income.

Mr. President, I commend the work of Senator KENNEDY in bringing this issue before the Senate today. I urge that the Senate adopt this amendment, as a first small step toward thorough reform of our tax system.

Mr. KENNEDY. Mr. President, I want to express appreciation to the distinguished Senator from Maine for his statement. He has been one of the real leaders in the Senate for tax reform and, as he mentioned, has appeared before the Ways and Means Committee and on the Senate floor to outline in considerable detail a program of tax equity and fairness for all taxpaying Americans. I commend him for the leadership he has shown in this area, as in so many others.

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

Mr. LONG. Mr. President, I have long advocated that we have a minimum income tax. This proposal is aimed at those who, to a considerable degree, are doing things that we want to encourage them to do. We have provisions in the tax law to encourage people to provide new jobs, new opportunities for people, to make investments, and to take risks with their money in ways that will expand the economy and enhance the wealth of the country. We have provisions that encourage people to contribute to education, to charity, and to religion. When people do a great number of things that we have deliberately sought to encourage them to do under the tax laws, that reduces their tax liability.

We cannot very well have it both ways. We cannot pursue the concept that on a given amount of income, everyone must pay the same tax, and at the same time have incentives in the tax law which have been included to stimulate the economy and encourage people to do things that we would like very much for them to do, such as providing new opportunities and expanding the wealth of the Nation, by granting them favorable tax treatment if they do what we are trying to encourage.

But we can certainly say, as I have advocated for several years now, that even though a person does a great number of things that Government policy seeks to encourage, he should, nevertheless, pay a certain amount of income tax.

Now we have made a start in that direction with the minimum income tax that we presently have on the statute books. In my opinion, it can be improved on, to raise a substantial additional amount of money.

The question is, Precisely how shall we go about doing that?

The House Ways and Means Committee certainly will make suggestions, after having thoroughly studied the matter with the benefit of the best technicians Congress has ever known, one of whom is sitting beside me now, Mr. Larry Woodworch, the chief of staff of the Joint Committee on Internal Revenue Taxation. They have spent a great deal of time, effort and work on this matter so far this year. That bill will come to us from the House in the fall of this year. They are studying, among other proposals, the proposal which is known as the Reuss bill on the House side—which, incidentally, Representative REUSS wanted to offer on this bill but was defeated by an overwhelming vote. But the Ways and Means Committee will consider REUSS's proposal, and they will also consider the proposal by the administration, which is a minimum tax, coupled with a reform directed at what they regard as tax loopholes in the form of "accounting losses."

Where this measure would raise an estimated $580 million, the Treasury Department proposal would raise $800 million. The Finance Committee would like to study whatever they see fit to send us, as well as to study the Kennedy proposal and everyone else's proposals that come before us. But I believe that it does a great disservice to the taxpayer and it also does a disservice to the Senate to vote on something that the Senate scarcely understands, that has not had the study of our own technicians, much less the study of Senators other than the sponsor of the measure, nor the benefit of hearings, where citizens would certain-

ly have a right to be heard before we tax them.

Imagine how unfair it is for American citizens to have a major tax voted upon them without the benefit of being heard at all, either in the Senate or in the House of Representatives. Think how much more unjust it is to have that tax added as an amendment to a bill that is not even a tax bill. Someone thinks it is a good idea and walks out on the floor to put a big tax increase on people who, for the most part, are doing things that American public policy, in its tax laws, seeks to encourage—a proposal to put a major tax on these people without even according them the opportunity of being heard; no hearing, just condemn those people and tax them.

It seems to me that those who are concerned are entitled to have their day in court; they are entitled to be heard. This proposal should be considered along with the various other minimum income tax suggestions that I and others would like to suggest for consideration.

With all due deference to the Senator, we have better technical advisors available to us than he has available to him. We would like an opportunity to suggest our own version of a minimum income tax when the House sends us their version of tax reform. We hope he would agree to ours, rather than submit one that nobody except the Senator, himself, has had a chance to study and ask us to agree to his.

So I hope the Senate will not seek to amend a bill that is not even a revenue bill—in the strict technical sense, this is not even a revenue bill—with a major tax proposal which no one who will be voting on it, except the sponsors themselves, even understands, which seeks to take the view that, because people are doing things that the tax laws seek to encourage, they should be punished promptly and without the benefit of a hearing.

An American citizen should be entitled to expect that he would have his day in court and have a chance to explain his problem and suggest that he be taxed, perhaps, in a way different from that being suggested. Something should not be forced upon the House that they have already rejected, because a Representative sought to offer a tax measure on a bill that was not a tax bill.

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

Mr. LONG. I yield.

Mr BENNETT. Does not the chairman also agree that whenever we change one part of the tax law, we inevitably affect many other parts? We need to find out not only how this might affect those it is intended to affect but also how it might inadvertently damage or injure other people it is supposed to protect or at least to avoid.

It seems to me that in a situation such as this, we always need the opportunity for staff study and for consideration by a committee that devotes its time to the study of taxation. When we make a bad guess and make a change in the tax law, we never know how far out the ripples will go or who will be injured.

Mr. LONG. I do not think that, as chairman of the committee, I have ever denied anyone an opportunity to be heard on a tax proposal.

If this amendment were adopted, it would be a case of putting a $580 million tax on people without offering them a chance to be heard in the House or in the Senate. At least, as far as I know, they have not had a chance to be heard on it in the House. The House often conducts hearings, as the Senator knows, and then writes its bill. If the House sends us a bill, at least the people on the Senate side have a chance to be heard on the House bill.

The proposed procedure would give no chance to be heard in any respect, in the House or in the Senate; and, in my judgment, it might well prove to frustrate its own purpose. As the Senator knows, that is one thing that a staff study and hearings often bring out: that people can demonstrate that if you do something, while it appears on its face that it would have a very desirable result, it might cause other reactions and cause people to change their way of doing business, which might totally frustrate the whole purpose of the proposal.

The Senator mentioned that the minimum tax we have on the statute books did not achieve the revenue that was anticipated for it. In all probability, that is because those who are affected by it changed their way of doing business. If they had continued to do business the way they had, it probably would have been what we had anticipated. But sometimes they change their way of doing business in ways that completely defeat the entire purpose of the provision.

In tax reform, I have been one who has advocated that we repeal the investment tax credit, and I fought for it. When we repealed the credit in 1969, the country found itself in a recession in short order, and the President asked that we reenact it. The Government was receiving less revenue than it would receive otherwise, because the economy was falling off. So a proposal designed to increase taxes reduced revenue because of the shortfall in the economy. Measures of that sort should be studied; they should be considered, and the various alternatives should be considered.

I believe that every Member of the Senate is capable of dreaming up a minimum income tax proposal—I do not say that in an invidious way—of putting his competent mind to work and coming forth with his own version of a minimum income tax, if he wishes to do so.

I think the Senator should submit his version of a minimum income tax and accord the committee the opportunity to pass judgment on it, in comparison with the minimum income tax that the White House is proposing, the minimum income tax that the Ways and Means Committee will be proposing, and the minimum income tax that quite a few other Senators will be proposing. I have in mind a way it might be done, myself, which I think might be more effective and raise more revenue than the Senator is suggesting here.

These things, properly done, involve a great deal of technical study, and they should be thought of in a comparative way and measured alongside other things that might achieve a similar result, and hopefully we will arrive at the one that will be most effective.

This is the first amendment offered to this bill to turn it into a tax bill. Up to now, it was not a tax bill. I hope the Senate will not wander off into the taxation area. We could go on forever and ever, getting into more and more things that, in my judgment, really could well be a part of a more orderly legislative process where the House initiates a revenue bill—a tax bill, in this instance—where it goes to the Senate, where it is studied, where a Senate committee makes recommendations and explains it, and where everyone can offer his proposal on a measure that everyone agrees is to be a revenue bill.

So I hope very much that this amendment will not be agreed to.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, I was hopeful that the chairman of the Committee on Finance would be willing to accept this amendment. After all, it is basically the concept which he reported from the Finance Committee in 1969, when that committee recommended the minimum tax at 5 percent, with no deduction for taxes paid. Then, in the late hours of the day, in December of that year, the Senator from Iowa (Mr. MILLER) offered a floor amendment to provide the deduction for taxes paid. Thus, with little consideration, a major loophole was written into the minimum tax.

I recall that debate very well, because it was at that time that I had an amendment on the minimum tax, too. The Senator from Iowa suddenly offered his substitute for the minimum tax.

The Senate took a quorum call while members of the Committee on Finance and others went to the reception room and listened to experts from the Treasury Department explain why we should accept the amendment. We did not need a great deal of study when we wrote this tax loophole into law, a loophole that has been worth hundreds of millions of dollar to those in the executive suites. There were no long hearings on that measure. But when we try to close that tax loophole, we hear that we need more hearings, and more consideration of the matter, more people to testify before committees, and more time for the House to consider it.

It happens that the House had a full day's hearing earlier this year on the minimum tax. There was not one person who appeared before the House committee who justified this deduction for taxes paid. It was uniformly and unequivocally condemned.

We know that if we fail to act, ordinary taxpayers will have to make up the $580 million in revenue we fail to pick up. In effect, men and women in plants and factories across the country and on the farms will pay $580 million more than they ought to pay, because there will be $580 million in revenue lost.

So we should not make a mistake about what we are doing. We can talk about other approaches to tax reforms in the future. Perhaps, instead of a blanket

10 percent rate, we should have a progressive rate for the minimum tax. Perhaps, we should eliminate the $30,000 exclusion. Perhaps we should expand the list of preferences.

I hope the Committee on Finance will do so when it considers comprehensive legislation. But I wish to reiterate that the pending amendment is not a new idea. It came to the floor with the support of the Committee on Finance in 1969. It was altered and changed on the floor in December 1969, without the benefit of hearings, without adequate consideration, in the last few minutes of debate in 1969, and the result has been a loophole unparallelled in the Internal Revenue Code.

So I hope we will act on this amendment favorably, Mr. President. I think it is a measure which can begin to restore some measure of tax justice to the American people and the Internal Revenue Code. I hope that the amendment will be accepted.

Mr. LONG. Mr. President, the Senator has referred to a lot of things that should be studied first in order to bring in more money. He is correct in saying that many things should be studied. They should be studied before the vote on this amendment. That is why the Senate should not agree to the amendment of the Senator from Massachusetts.

The Senator from Massachusetts made a few misstatements that should be corrected for the record. For one thing, he suggested that what he is proposing was recommended by the Committee on Finance. Not quite. The committee voted that we should have a 5-percent minimum tax, and when the matter was considered on the floor it was brought to our attention that a great many people who would be adversely affected had not had a chance to testify to it and that this would work an injustice in ways not anticipated. So we modified the measure to provide instead a 5-percent tax, a 10-percent tax with a deduction for the regular tax already paid. We felt this would be more equitable and fair to all concerned. I believe it is.

The Senator from Massachusetts, I am sure, would want to correct the statement that when we voted for the minimum income tax sponsored by the committee that we voted for a loophole. That was a tax which has worked out even though people did change their way of behaving. That tax collected about $440 million in 1971 upward of that now from people and corporations we call favored taxpayers. I do not call that a loophole when it is bringing in over $440 million a year. That is what we did. The Senator's proposal would raise $580 million a year. If that is what the Senator from Massachusetts would like, then the Senator from Louisiana did not do too badly with upward of $440 million.

The Senator might be disappointed, just as we might be that they changed their way of doing business when there are taxes concerned that are not anticipated. We collected, in 1971, about $440 million, $280 million from corporations, with the minimum tax we have now. We would like to raise it but we would like to do it in an orderly fashion so that those who are adversely affected have the opportunity to present their case.

I hope many of them will have the fairness to agree that they ought to be taxed and pay more taxes, but also to suggest to us ways they think would be most fair and equitable. I find a great many business people are willing to concede they should pay more taxes and it would be appropriate for them to pay more if you tax them in a certain fashion which would recognize what the problem is and help them adjust to meet it.

I hope we are not asked to adopt something which on its face would be foolish as far as taxation of wage earners is concerned; and that we are, instead, permitted to propose a tax increase that would tax those we regard as being the most favored under our tax laws. I hope we would consider their problem and what they are already paying, and hopefully bring a measure before the Senate that is not going to do any injustice to anyone, including the injustice of simply taxing people without affording them the opportunity to be heard before the tax is placed on them, a tax that may be proven to be at least inconsiderate in one respect or another, either in the way it is divided or the way it applies to them.

I have no doubt that the Senator is on the right track when he proposes to bring in more money. I can assure him every Senator will have the opportunity to vote for it and if the Senate votes for it I will be glad to support it in conference and try to prevail on the House to accept it. But I think it should be a matter of proper legislative procedures and in accordance with the constitutional concept the House should originate such a revenue bill, which it is in the process or originating, and that the Senate should be in the traditional role of second-guessing the House, trying to write a better bill.

I am proud to be a Senator and I am proud to be a member of the Committee on Finance. I have always felt that any bill the House sends us we could improve upon. We have worked hard to do that and with the tax reform bill on the books we did a fair job improving that bill in a great many ways where we felt it had an unfair impact on the Nation. The Senate sustained us and the House agreed for the most part to the changes we made in the Senate committee.

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

Mr. LONG. I yield.

Mr. BENNETT. In the normal pattern of development of tax legislation, does not the Senator agree that the House deals with general principles, sends us a bill, and the only time the individual affected has a chance to bring his case is before the Senate? He really does not get the opportunity before the House. We perform that unique function, and we give the individuals affected the opportunity to tell their side of the story.

Mr. LONG. The Senator is entirely correct. The people over in the House have a little pride in themselves. They have some very able men on that Ways and Means Committee, not the least of them is Mr. WILBUR MILLS, a man with a fair knowledge of the entire field of taxation. Those men have been working many months in developing recommendations in this very area. We then presume to impose this upon them after they have already voted down a similar provision on the House floor.

They are not going to take a provision of this sort. They will be polite in the way they turn down the Senator's amendment, but they are going to turn him down. If we want to try to force this on them, I have no doubt that they will refuse us in a very firm way, so that there is no misunderstanding about it. They would refuse us because the bill should have originated on their side; they know 10 times as much about this as Senators do, since they have studied it and Senators have not. We ought to let them send it here. When they do, they will appreciate any consideration we give to it. After that, if we wanted to send something back, after we have considered it and know what we are doing, they will give it serious consideration.

But to legislate when they know 10 times as much as a Senator may know about the subject, when they have already voted it down to begin with, is just asking them for something that we know they will not agree to. This attempt would impress on the House that the Senate really does not know what it is doing, because they will say, "You have not studied it; you have not had any hearings on it; you have not had any experts advising you; it is a floor amendment to make a tax bill out of what was not a tax bill at all." It will not be agreed to.

All 100 Senators could not make the House conferees take this amendment on this bill when they are planning to write their own tax bill, which they will send to us.

They said they were going to do it. They will do it. They have a reputation for keeping their word. They ought to be accorded the opportunity to do so.

I hope very much the Senate will give itself the opportunity to study the amendment as part of general tax reform and will reserve to itself the privilege to write its own tax law when the House sends us a tax bill, on which it would be appropriate to consider a measure of this sort.

Mr. President, in due course, I think I will move to table the pending amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Maine.

Mr. MUSKIE. Mr. President, I have listened to some very familiar arguments about the undesirability of attaching a tax amendment to this bill, about the undesirability of the Senate's considering a tax amendment without a committee recommendation or report, and about the undesirability of the Senate's adopting a provision that the Senator from Louisiana is convinced the House cannot be persuaded to take.

I doubt very much that what the Senator from Massachusetts has done this afternoon comes to the Senator from Louisiana as a novel and surprising use

of the parliamentary rules. I would be very much surprised if the Senator from Louisiana has not himself followed the route that is being followed by the Senator from Massachusetts.

I think every freshman Senator ought to be given a handbook of stock arguments to be used or rejected, depending upon what his own parliamentary circumstances may be.

We can all agree that the committee process is a very useful one and should be relied upon to develop and digest legislative ideas for the consideration of the Senate. But to argue, from that premise, that never, under any circumstances, should an amendment which has had such treatment be considered seriously on the Senate floor is to fly in the face of hundreds of precedents that I have seen on the Senate floor and in which the Senator from Louisiana himself has participated over these years.

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

Mr. MUSKIE. I yield.

Mr. LONG. I am sure the Senator would not speak with such authority if he knew what he was saying. What tax bill have I ever attached to such a bill?

Mr. MUSKIE. The Senator knows full well what I mean. There may not be an exact precedent for the Senator's doing exactly this, but what I am saying is that I would be surprised if the Senator has never used the opportunity of advocating the attachment of an amendment—an amendment which has not been considered in some committee—to a vehicle that hopefully would pass through the Senate in order to advance a legislative objective in which be believed.

I am not an authority on the Senator's legislative record and voting record, so if he says that he has never done so, I will, of course, take his word for it. I am simply making the point that the technique used by the Senator from Massachusetts is a very familiar one. It is a technique that has been accepted, and it is a technique that has been responsible for enacting important legislation.

Mr. LONG. If I understood the Senator's remarks, he said I had done the same thing that is being done now. I am complaining about a tax bill being put on a nontax bill. The Senator said I did that. He should not say it if he does not know it, and if he says it he should document it.

Mr. MUSKIE. The Senator is now in the position of distorting what I said——

Mr. LONG. I did not hear the Senator.

Mr. MUSKIE. I said the Senator now finds himself in the position of distorting what I said. The Senator and I are belaboring a meaningless point and taking time unnecessarily, and I doubt that the Senator can prove his rebuttal that this is such an unusual legislative procedure: To offer a substantive amendment that was not considered in committee to an appropriate vehicle that happens to be passing through the Senate. If the Senator challenges that——

Mr. LONG. If the Senator says I did something, he ought to be able to prove it and document it. Otherwise he should not say I did it.

Mr. MUSKIE. The Senator's sensitivities seem to be over-sharp this afternoon. I said that I would be surprised if the Senator had not done something like this in the past. I apologize to the Senator.

Mr. KENNEDY. Mr. President, the Senator from Maine was perhaps thinking of 1966, when the Senate was considering the Foreign Investors Tax Act. The Senator from Louisiana offered the dollar checkoff to finance Presidential election campaigns. That was certainly a new concept and a new idea, yet it was a nongrievance rider on another bill.

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

Mr. MUSKIE. May I respond? I recall supporting the Senator's efforts at that time.

Mr. LONG. Mr. President, will the Senator yield, on my own time, at that point?

Mr. MUSKIE. I was trying to make an argument——

Mr. LONG. Would the Senator mind yielding to me for a moment?

Mr. MUSKIE. I will yield the floor, but I was trying to answer the substance of the argument. So, lest we lose sight of the fact that——

Mr. LONG. I will be glad to yield on my time.

Mr. MUSKIE. I do not want to take more than 3 or 4 minutes to make a substantive argument.

Mr. LONG. The Senator from Massachusetts directed the Senator from Maine's attention to the fact that I had offered a tax amendment on a tax bill, and the tax amendment I offered on a tax bill was one which had been the subject of rather extensive hearings.

What I am suggesting is that if the Senator wants to propose a tax amendment, he propose it on a tax bill—and we are going to have a tax bill—to which it is germane, and as to which, if amendments are agreed to, we have a chance to have them accepted in conference.

All I am urging that the Senator do with the amendment is to offer the amendment on the proper bill and afford the proper committee an opportunity to look at the amendment, study it, and compare it to other proposals on the same provision in the tax code. There are recommendations on tax reform sent to us by the President and there will be those recommended by the House in the bill it will send us.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the distinguished Senator from Maine.

Mr. MUSKIE. Mr. President, I am pleased the Senator made that point. I was undertaking to answer it when I got sidetracked. I support the notion of orderly consideration of legislation of this kind. I support the notion of committee hearings, committee deliberations, and committee recommendations. However, now let us consider what is perhaps a wiser course to follow in this case.

Last year in the presidential campaign, in which for a short time I was involved, there was no issue more visible across this country or closer to the average citizen than this issue of tax reform. It was raised by all the candidates—including a Presidential candidate from the region the Senator from Louisiana comes from Governor Wallace. And I give him credit for raising it. He knew that the people were concerned. He forced the rest of us to come to grips with it. And we did.

I put a task force together of experts in the business, economic, and tax fields to develop alternative sets of tax reforms for me to consider. I know that the other candidates did the same. And we spoke out about tax reform. The President of the United States promised tax reform. That was among the most visible issues in the campaign. It was an issue that had been ignored last year. Tax reform had a very low profile in Congress.

I prepared for this Congress. It was in January of this year that I made a major tax reform speech in the Senate.

I testified as well before the Ways and Means Committee of the House, as part of that committee's comprehensive hearings. Others did the same. The Ways and Means Committee, over a period of many weeks heard all sides of the arguments on most major tax reform issues.

Yet, today there is still a lack of any feeling of urgency about tax reform. It has been postponed by the Ways and Means Committee of the House. And there is not such a sense of urgency in the Senate as to give us much confidence that it will be seriously considered.

So it is in this context that some of us have been looking for an opportunity to raise the issue on the Senate floor and to see whether there is any sentiment for it, to begin to stimulate debate, and to begin to arouse public interest. We hope that perhaps we can, with the introduction of this amendment, move on to a meaningful program of tax reform.

That, I say to my distinguished colleague from Louisiana, is a legitimate reason to offer the amendment this afternoon.

Why this one? The minimum tax was considered in the House hearings. There was a full day of consideration. And there was substantial evidence produced that the minimum tax should be reformed.

The Senator from Massachusetts (Mr. KENNEDY) and the other 16 cosponsors of the amendment, including myself, believe that there is merit in this reform proposal. It is supported by past hearings. And it is supposed by our studies.

Because the inequity this amendment would correct, is a part of tax reform that was supposed to close a loophole, some have argued that the amendment is not needed. I say to the Senator that it is possible for a loophole to continue to exist within a loophole we had thought we had closed.

The Senator from Louisiana himself estimated a revenue gain of, I believe, of about $580 million from this amendment. That revenue loss is, in my judgment, unjustified. It is for that reason that we offer this proposal this afternoon.

Mr. President, I hope that the Finance Committee does soon conduct a thorough

study of tax reform. But today we have an opportunity for the Senate to indicate its interest in tax reform and, by its vote, to give a rousing sendoff to such an effort.

A vote for the Kennedy amendment is a minor one, a small one. Some may say that there is not much interest in tax reform in the Senate this year. That is what we want to find out.

Tax preferences, for whatever social or economic purpose they were enacted, represent the expenditure of public funds in the same way as appropriations do.

The PRESIDING OFFICER (Mr. McGOVERN). The time of the Senator from Maine has expired.

Mr. KENNEDY. Mr. President, I yield an additional 3 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for an additional 3 minutes.

Mr. MUSKIE. Mr. President, tax preferences get written into law and are never examined again until the Congress decides to stand up to those who have vested interests in such preferences. And now is the time for us to stand up and demand this examination—and the reform it would produce.

Mr. President, finally, I would like to commend my distinguished colleague from Wisconsin, Senator NELSON, for the work he has done—in this Congress as in past Congresses—to bring tax reform before the Senate. He has joined again in our effort today. I applaud his continued dedication to this critical issue.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Indiana.

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

Mr. BAYH. Mr. President, I am privileged to be a cosponsor of the amendment with the distinguished Senator from Massachusetts. I will not fire my little shot, so to speak, at this time, because the Senator from Massachusetts and I have introduced amendments in tandem. One would deal with trying to plug up loopholes across the board by at least 10 percent of the taxable income. Another would go to reducing the IDR, the corporate giveaway which we have been discussing and debating and voting on in previous years on the floor of the Senate.

I would like to say that it seems to me that if anything is equitable—no, I will not say that. I am not too sure this is equitable. If we had to know how history would judge us, history would probably indict those of us who are supporting this amendment for being too timid.

I suppose it is wise to get what we can. And for that reason I think if we can get 10 percent of the whole, that is fine.

I remember supporting the Senator from Massachusetts on the last effort, which was to get, I believe, 25 percent.

At that particular time I happened to be traveling through the country, seeing America first. I might mention that I was following in the big footsteps of the Senator from Maine.

I talked with a lot of students. They said, "What is the matter with you? When are you going to go back there? When is Congress going to make a record on plugging up loopholes? What are you doing to plug up loopholes?"

I had to say, almost with a tear in my eye, that just the week before, we had voted on a measure to plug up 10 percent of the loopholes, not 25 percent.

We said, "Let us recognize that everybody has a little special interest. Let us just take away 25 percent of everyone's special interests." On that proposition, I think we got 29 votes.

The PRESIDING OFFICER. The Senator's time has expired.

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

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. KENNEDY. I yield it to the Senator from Indiana.

Mr. BAYH. Now, all we are trying to say is that we are going to take a 10-percent step. That is a mighty small step, but better than no step at all. I thank the Senator from Massachusetts for making the effort, and I associate myself with him.

Mr. LONG. Mr. President, if the Senator from Indiana has an amendment he is thinking about offering, I hope he will do so. I think it is one I supported when he offered it to the Revenue Act of 1971. It would raise twice as much revenue as the Kennedy amendment would raise. It relates the rate of depreciation. As I recall, it came within an eyelash of prevailing, having missed by one vote.

I am not out of step with what the Senator wants to do. I favor the concept of the minimum tax, as I think everyone else does, but the whole thing ought to be approached on a tax bill. It is an exercise in futility, to do it this way, and to do it without affording the committee that has jurisdiction an opportunity to study—taking advantage of the best advice available to us from tax experts and others—and to suggest to the Senate the best way that the committee thinks it might be done.

To decline to use any of that advice, in my judgment, is a pretty foolish thing to do. If nothing else, it is a waste of money to hire tax experts and decline to use them. It is a waste of money to build hearing rooms, and then not afford anyone the opportunity to be heard.

That is what we are doing. They have a right to have the committee hold hearings, provide space and staff and everything else so that everyone can offer his suggestions and have them considered. And I hope at a proper time, Mr. President, that this matter will be considered, and that the committee will not be deprived of an opportunity to study it, because that is something we on the committee have not had an opportunity to do, as the matter stands today.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, finally, the arguments this afternoon have dealt almost solely with the procedures we have been following. They have not sought to defend the current loophole, because the loophole is indefensible. We are faced now with a motion to table the amendment. Even though the bill we are considering includes a wide variety of different programs that have nothing to do with the debt ceiling, they are all worthy and demanding, and so is the pending amendment.

The reason we have been dwelling on procedure so much is because there is so little justification for a continuation of this particular loophole. I am hopeful that we will be able to get a vote on this amendment, and I hope that the proposal to lay it on the table will be defeated.

Mr. NELSON. Mr. President, a noted tax expert once wrote that the tax law "reflects a continuing struggle among contending interests for the privilege of paying the least." An analysis of the effect of our tax code shows who is winning this struggle and who has the privilege of paying a higher percentage of their income in taxes. In 1970, the average tax for all returns was 13.8 percent. For joint returns with little more than two exemptions the average tax was 13.3 percent of adjusted gross income. On the other hand, in 1967, 155 tax returns showed adjusted gross income above $200,000 and no Federal tax liability. In 1969, some 300 individuals with incomes of more than $200,000 paid no Federal income tax.

As startling as these figures are, they understate the number of wealthy people who, through tax loopholes, escape paying any Federal income tax at all. These figures include only individuals who file Federal income tax returns showing adjusted gross incomes in excess of the $200,000 and $1 million levels. Important tax preferences in the present Internal Revenue Code exclude certain classes of income from the definition of "gross income" altogether.

More important than the tax preferences excluding income items from "gross income" are those which result in reduction of a taxpayer's "adjusted gross income" by means of special deductions. The deductions permitted by the percentage depletion allowance is an example of such a deduction. Because deductions of this kind reduce taxpayers' adjusted gross income—the figure upon which the Treasury statistics are based—they can prevent the statistics from including many individuals who in fact have large real incomes but pay no tax.

The fact that a millionaire can escape paying any Federal income tax at all captures our attention but the problem is much more serious and widespread. For every wealthy person who pays no Federal income tax there are many more who do not pay a fair share of their income in tax. In fact, the tax rate on these wealthy people's income is frequently much less than the tax rate of the income of the average American worker.

The statutory rate schedule for the individual income tax has a sharply progressive structure. The tax rates rise from 14 percent to 70 percent. For married taxpayers filing joint returns, the 14 percent bracket applies only to the first $1,000 of taxable income; the 70 percent bracket applies to all taxable income in excess of $200,000.

Data on the rates of tax which taxpayers really pay manifests a marked

departure from the statutory rates. Statistics disclosed by the Treasury Department in 1969 indicate that, at 1969 income levels, 28.2 percent of the tax returns showing "amended taxable income" between $500,000 and $1 million paid tax at effective rates of no more than 25 percent, 58.5 percent of the taxpayers in this income range paid tax at effective rates of no more than 30 percent—substantially less than half the top statutory rate. Of taxpayers having amended taxable income of $1 million and over, 62.8 percent paid tax at effective rates of no more than 30 percent. An analysis of the data in light of specific reforms contained in the 1969 act suggests that post-1969 statistics would not show substantial deviations from the figures set forth above.

In an attempt to correct, to a limited extent, this inequity, Congress in 1969 established a minimum tax providing for a flat 10-percent tax rate on income that had escaped entirely being subject to tax. Congress enacted the minimum tax on tax preference income because, regardless of the individual merit of the provision which established such preferences, we did not want them to be pyramided by wealthy individuals to allow them to escape liability entirely.

It is generally agreed, however, that the minimum tax has not achieved its stated purpose that every wealthy individual and corporation should pay at least a minimum tax on his preference income. In 1970, the first year when the minimum tax was in effect, 106 individuals with adjusted gross income exceeding $200,000 still paid no Federal income tax. In 1971, 276 taxpayers with incomes over $100,000 paid no Federal income tax at all.

When the minimum tax was enacted, it was estimated that it would raise $590 million in Federal revenues from individuals in the first year; in fact, for 1970 it raised only $117 million from individuals, and only $163 million from individuals in 1971. The effective tax rate for individuals in 1970 on this preference income was 4 percent, rather than the statutory rate of 10 percent.

In 1971, the average effective tax rate dropped even further to 2.63 percent. In this year, 98,000 individuals had reported tax preference income but 74,000 of them paid no minimum tax even though their preference income totalled nearly $4 billion. Of the remaining 24,000 wealthy individuals with an average of $160,000 of preference income, they paid a minimum tax at the rate of 4.13 percent, a lower tax rate than for a wage earner making $6,000.

The minimum tax has failed in part because of crippling amendments adopted on the Senate floor allowing deductions for other income taxes paid. During executive sessions on the debt ceiling bill. I offered an amendment which would have repealed these provisions that have, in part, vitiated the minimum tax, drastically reduced its expected revenue gain and lowered its effective rate of 4 percent instead of the statutory 10 percent rate.

The basic rationale for the concept of a minimum tax is that it is needed because the taxpayer has amassed certain items of income which are not included in his regular tax base. These excluded items stand apart from, and in addition to, the items normally taxed. The reason the taxpayer is subject to the minimum tax is that his effective tax is too low in relation to his real income due to the amount he received from tax preference items. To give him credit for the tax that he pays on his regular income defeats the purpose of the minimum tax. The on "regular" income is simply unrelated to the tax on excluded items of tax preference. It is illogical to establish a tax on the preferred income escaping taxation, and then allow a deduction for taxes paid on regular income.

While my amendment failed to be adopted by the committee it will be offered again on the floor of the Senate. I urge its adoption by the Members of the Senate.

Enactment of major tax reform legislation has been, unfortunately, but understandably delayed in the House of Representatives because of the need to promptly consider trade legislation. Repealing unnecessary and costly tax preferences and restoring fundamental tax equity and justice must be a constant objective of Congress. The recent Presidential campaign and public opinion polls revealed massive public discontent and discomfort with our tax system. Public confidence and faith must be restored in a system which, by its very nature, relies on the voluntary compliance of the overwhelming majority of American taxpayers.

This amendment will close an egregious tax loophole and collect $580 million of badly needed Federal revenue. Adoption of this amendment would help to balance the budget and would be a convincing downpayment by the Congress to the American people of our commitment to enact substantial tax reform.

Mr. JAVITS. Mr. President, I must vote against the Kennedy amendment because one of its principal effects is to allow high salaried executives to use the large amount of regular taxes they pay as an offset against income they receive from tax loopholes. Since the rationale for the minimum tax was to avoid situations where some very high income persons were able to avoid taxes or pay very low taxes, it seems odd that persons who do pay a "large amount of regular taxes" should be depicted as in some way unpatriotic. My particular preference, on the other hand, would be to raise from 10 to 20 percent the rate on income from tax preferences. This would get at the person who actually pays little or no taxes in a way that the Kennedy amendment does not.

Under existing law, what we have is a minimum tax provision which is intended to be what the name implies: if people are not paying a regular tax, or are paying a low tax, they must pay a minimum of 10 percent on their tax preference income. Under the Kennedy amendment however, you could have persons paying large regular taxes plus the preference tax. In addition, the amendment would not affect rich persons paying no taxes. In other words, the whole character of the minimum tax provision would change under the present amendment, and would become a flat 10-percent tax on the gross amount of preferences, in addition to all regular taxes paid. If Congress wants to levy a charge on preference income it should do so directly rather than by the backdoor way being proposed by the present amendment.

Mr. LONG. Mr. President, as I have said before, these tax amendments ought to be offered on tax bills. This is not a tax bill. Strictly construed, if this amendment is added to this bill, the House would be completely within its rights to send the bill back with a blue slip advising us that revenue bills must originate in the House of Representatives.

It is not a tax bill; it is a bill to continue the existing debt limit. It could well be contended that that is not a bill to raise revenue, but just a bill to continue the existing status, and that therefore the Senate is attempting to make a tax bill out of a bill that was not a revenue bill a all.

To vote on this amendment, then, means that we have to consider the two other tax amendments before us, one of which involves twice as much money as is involved in this one.

So, Mr. President, if all time has expired—or, if not, I am prepared to yield back the remainder of my time—I move that the amendment be laid on the table.

I ask for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. McGOVERN). The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the amendment of the Senator from Massachusetts (Mr. KENNEDY). 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 Delaware (Mr. BIDEN), and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is necessarily absent and, if present and voting, would vote "yea."

The result was announced—yeas 49, nays 47, as follows:

[No. 244 Leg.]

YEAS—49

Aiken	Eastland	Nunn
Baker	Ervin	Packwood
Bartlett	Fannin	Pearson
Beall	Fong	Percy
Bellmon	Fulbright	Randolph
Bennett	Goldwater	Roth
Bentsen	Griffin	Scott, Pa.
Brock	Gurney	Scott, Va.
Buckley	Hansen	Sparkman
Byrd, Harry F., Jr.	Helms	Stafford
	Hollings	Taft
Byrd, Robert C.	Hruska	Talmadge
Cook	Javits	Thurmond
Cotton	Johnston	Tower
Dole	Long	Weicker
Domenici	McClellan	Young
Dominick	McClure	

NAYS—47

Abourezk	Hatfield	Montoya
Allen	Hathaway	Moss
Bayh	Huddleston	Muskie
Bible	Hughes	Nelson
Brooke	Humphrey	Pastore
Burdick	Inouye	Pell
Cannon	Jackson	Proxmire
Case	Kennedy	Ribicoff
Chiles	Magnuson	Saxbe
Church	Mansfield	Schweiker
Cranston	Mathias	Stevens
Eagleton	McGee	Stevenson
Gravel	McGovern	Symington
Hart	McIntyre	Tunney
Hartke	Metcalf	Williams
Haskell	Mondale	

NOT VOTING—4

Biden	Curtis	Stennis
Clark		

So the motion to table Mr. KENNEDY's amendment No. 262 was agreed to.

Mr. FANNIN. Mr. President, I must protest the manner in which this extremely important legislation to increase the national debt limit has been handled.

Amendments have been proposed which are unwise or irresponsible, or both. These amendments are being loaded into this bill because their proponents know that the President cannot possibly veto the legislation.

The amendments are not germane, and I feel that we are following extremely poor legislative procedure.

For this reason, I am voting against every amendment although there are several amendments, such as the one to postpone the effective date of proposed social services regulations, which I support under proper procedures.

The amendment to increase social security benefits by 5½ percent is a good example of the attempt by some Senators to railroad through an amendment which is not germane to the bill and which has not had the full consideration such an important act should have.

Mr. President, there is not a Member of this Congress who would oppose raising social security benefits by 5.5 percent if that alone were the issue. Personally, I would like to see benefits increased considerably more, especially for those on social security who are most in need.

It is my opinion, however, that the proposed increase is most unwise at this time and would be a disservice to the very people we seek to help.

The Senate Finance Committee adopted the 5½-percent increase on the spur of the moment without the benefit of hearings. Proponents of the increase argued that the 5½ percent could be paid from a projected "surplus" in the social security fund.

Experts have warned us that the social security fund is at a dangerously low level. The Secretary of Health, Education and Welfare, Caspar Weinberger, has pointed out that if the Senate Finance Committee amendments were approved, the ratio of assets to expenditures under the social security benefit program would drop to 74 percent next year and would further decline thereafter. The recommended level is no less than 75 percent. What we will be doing if this increase is approved will be to finance it out of contingency funds.

We, in truth, have no surplus. And to say that an estimated surplus will finance an increase in benefits only compounds the folly.

An economic downturn could wreck all projections and leave the social security program bankrupt.

Although 5½ percent seems small enough, it amounts to $2.75 billion, and with other amendments approved in the committee we would add $3.3 billion to the cost. This is highly inflationary.

What good will it do to raise social security payments 5½ percent if we cause a 20-percent inflation rate? When this occurs then we in effect have a 14½-percent tax on the elderly rather than a 5½-percent increase in benefits. Inflation is the most costly and cruel tax on the poor.

This increase also flies in the face of other legislation we have passed and other goals we have set.

What does this do to the $268 billion budget ceiling that we have passed? It means that the President will be forced to impound funds from some other programs—exactly what Congress is trying to prevent at the present time.

Just last September the Congress approved a 20-percent increase in social security benefits, and at the same time we put in an automatic cost of living escalator.

It should be pointed out that the additional benefits would not go only to the needy. The increase would go also to those who are quite well off and still collecting their social security. For these people the additional money is simply "gravy" which would add to our inflationary pressures.

I sincerely believe that the fight against inflation should be waged courageously and uniformly.

This includes any congressional pay raise which I vehemently oppose. Perhaps some Members feel that increasing social security by 5½ percent will make a 25 percent congressional pay raise more palatable to the public, but I do not.

Congress cannot make something out of nothing. The American people will get only what they pay for. An increase in social security will have to be financed by an increase in taxes, or else the system will most certainly collapse. It is time that we start being honest with the elderly, and with all Americans, concerning the social security system.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, if I could have the attention of the Senate, I should like to discuss the remainder of the schedule for today and possibly tomorrow.

ORDER FOR ADJOURNMENT TO 8:30 A.M.

Mr. MANSFIELD, Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until the hour of 8:30 a.m. tomorrow morning.

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

Mr. MANSFIELD. Mr. President, it is my understanding that the names will be furnished by the assistant majority leader of four Senators, tomorrow, for the purpose of discussing a series of very important issues.

ORDER FOR CONSIDERATION OF NOMINATION OF JAMES R. SCHLESINGER TO BE SECRETARY OF DEFENSE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at 9:30 a.m. tomorrow, the Senate proceed to the consideration of the nomination of Mr. James Schlesinger to be Secretary of Defense.

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

Mr. MANSFIELD. It is my understanding that there is 1 hour to be allocated to the Senator from Wisconsin (Mr. PROXMIRE)—it may not all be taken—plus one-half hour to be equally divided, which has already been agreed to.

The PRESIDING OFFICER. Without objection, the Senate will go into executive session at that time to consider the nomination of Mr. Schlesinger.

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the vote on Mr. Schlesinger's nomination occur at the hour of 12:30 p.m. tomorrow.

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

Mr. GRIFFIN. Mr. President, have the yeas and nays been ordered?

Mr. MANSFIELD. No.

Mr. President, I ask unanimous consent that it be in order at this time to request the yeas and nays on the Schlesinger nomination.

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

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

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT ON AGRICULTURAL APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, this request having been cleared with the Republican leadership and with the distinguished Senator from Wyoming (Mr. MCGEE), that at such time as the agriculture appropriation bill is called up and made the pending business before the Senate, there be a 2-hour limitation thereon, the time to be equally divided between Mr. MCGEE and Mr. FONG; that time on any amendment, debatable motion, or appeal be limited to 30 minutes; and that the agreement be in the usual form with respect to the division of time.

Mr. YOUNG. Mr. President, I understand that there is no objection on the Republican side to this agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That, during the consideration of H.R. 8619, the Agriculture Environmental and Consumer Protection Appropriation Bill for

1974, debate on any amendment, debatable motion or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of any such amendment or motion 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.

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 Wyoming (Mr. McGEE) and the Senator from Hawaii (Mr. FONG): *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, debatable motion or appeal.

CONTINUATION OF EXISTING TEMPORARY INCREASE IN THE PUBLIC DEBT

The Senate continued with the consideration of the bill (H.R. 8410) to continue the existing temporary increase in the public debt limit through November 30, 1973, and for other purposes.

Mr. MANSFIELD. Mr. President, I understand that 19 amendments are at the desk. Does the distinguished manager of the bill and the distinguished ranking Member think it will be possible to complete this bill this evening?

Mr. LONG. Could I just ask the various Senators who plan to call up their amendments to raise their hands, so that we can get some idea?

Mr. MANSFIELD. Six.

Mr. LONG. I believe we would do well to keep going for an hour or so and see what our chances are.

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

Mr. LONG. I yield.

Mr. BENNETT. I wonder whether it would be possible, under the present circumstances, to modify the agreement to limit time on each amendment to a half hour instead of an hour.

Mr. MANSFIELD. The Senator read my thoughts, but I think the distinguished Senator from New York——

Mr. JAVITS. We are going over until tomorrow, anyway, at Senator LONG's suggestion.

Mr. MANSFIELD. I think we could try to finish tonight, because we have only six more amendments.

Mr. LONG. I suggest that, with the exception of the amendment by the Senator from New York, we ask unanimous consent to limit the time to a half hour on each amendment, to be equally divided—reserving, of course, the same time——

Mr. JAVITS. May I know the intention of the Senators?

Mr. LONG. If we go over until tomorrow, I would suggest that the Senator from New York bring up his amendment tomorrow. But if we see a chance to finish tonight, I would hope that we would go ahead and consider the Senator's amendment.

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

Mr. LONG. I yield.

Mr. SYMINGTON. Will the Senator ask those who have an amendment whether they have more than one amendment?

Mr. MANSFIELD. Who has more than one amendment?

Mr. CHURCH. I have two amendments.

Mr. MANSFIELD. The distinguished Senator from Louisiana has a unanimous-consent request that, with the exception of the Javits amendment, amendments be limited to 30 minutes, to be equally divided.

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

AMENDMENT NO. 261

Mr. BAYH. Mr. President, I call up my amendment No. 261.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill insert the following:

SEC. . (a) Section 167(m)(1) of the Internal Revenue Code of 1954 (relating to class lives) is amended by striking out the second sentence.

(b) The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. BAYH. Mr. President, I ask unanimous consent that a staff aide, Jay Berman, have the privilege of the floor through the vote on this amendment.

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

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

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BAYH. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that Eugene Mittleman have the privilege of the floor in connection with my amendment.

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

Mr. BAYH. I yield myself 5 minutes.

Mr. President, today, along with 17 other Senators, I am asking the Senate to take the first step toward meaningful tax reform in the 93d Congress—repeal of the asset depreciation range system and the strengthening of the provisions which require the payment of a minimum tax on tax preference income. At the beginning of the year we were promised the opportunity during this first session to consider broad based and meaningful tax reform legislation, which unfortunately was just defeated.

Because of the urgent need for the tax writing committees of Congress to consider trade legislation, tax reform has been put aside. Hopefully, we will be able to fully address ourselves to tax reform early in the second session. But the demand of the American people for greater equity in their tax laws is sufficiently great to require us to begin acting on tax reform legislation now. The two proposals which we are suggesting are responsible and modest, and are clearly justified and relatively simple.

Many of the arguments made by the distinguished Senator from Massachusetts can be made to support the present amendment. As Senators will note, the amendments were submitted in tandem and consecutively numbered.

The asset depreciation range system is an accounting method which subsidizes the cost of capital by allowing a 20 percent increase in the rate of depreciation deductions over the actual useful life of the capital assets as defined by the Treasury's regulations. It is nothing more nor less than a direct subsidy payment by the Government to these corporations.

This direct subsidy payment will cost the Treasury some $1.2 billion in lost revenue in fiscal 1974 and as much as $30 billion in lost revenues by 1980.

The proponents of ADR argued when it was instituted in 1971 that it was needed because business profits were so low as to be inadequate to finance future investment. I argued at that time both in hearings at the Treasury Department and on the floor of the Senate that the relatively low profits simply reflected the recession that existed. Profits, I suggested, would recover once the Government decided to allow the economy to recover and that ADR was a most inefficient and inequitable method to attempt to stimulate investment and to stimulate the economy. This prediction has been borne out. Corporate profits before taxes in the first quarter of this year are at an all time record of $114.3 billion, a 29.6 percent increase in 1 year. And last year's profits themselves were at a previous record level.

Moreover, ADR comes on top of the investment tax credit which is also designed to stimulate investment but does so in a much more efficient way. Largely because of the investment tax credit we are now in the midst of the investment boom with capital expenditures running at a fantastic 19 percent increase over last year according to the recently published May figures. Even more troublesome is the resulting inflationary pressure in the capital goods sectors where the most recent figures show price increases now running at the disastrous rate of almost 15 percent.

Investment is therefore outrunning both personal consumption and government purchases at all levels. The result is that we are rapidly heading toward a situation of serious overcapacity, are greatly exaggerating inflationary pressures, and are seeking trouble at a later date. This surge in capital investment must be soothed out. Many economists are now advocating that we suspend the investment tax credit. I believe that the investment tax credit is needed and desirable as an efficient method of stimulating investment. The uncertainty that would be created by turning it off and on would, in my view, create too much instability. The way to accomplish a dampening of the investment sector is to repeal ADR and to do so now.

Thus the two major arguments previously made by the supporters of ADR are no longer viable. There is a need to

restrain rather than expand investment demand. Corporate profits are, as I mentioned earlier, at record levels.

Finally, there has been some suggestion that ADR is needed to protect the competitive position of U.S. producers vis-a-vis their foreign rivals. Nearly all economists agree, however, that this is a spurious argument. There is no empirical evidence that those countries with the lowest taxes on capital have higher rates of economic growth. In fact, among the major industrial nations the converse appears to be true. Major improvements in the U.S. balance of payments has and will come about because of the recent devaluation of the dollar rather than any tax giveaway on business.

In short, Mr. President, ADR which was a bad idea to begin with, has now become totally indefensible. In my view, to continue stimulating investment by a tax break in the present inflationary capital spending boom is like dropping money over the country clubs of America. We should provide the tax incentive where it really is needed.

Mr. President, I urgently suggest to Senators that the time is ripe to end ADR, and to do it now.

I might just say to the distinguished chairman of the Committee on Finance, my good friend and colleague, the Senator from Louisiana, that I appreciate the particular concern that he has about putting this measure on this particular kind of bill. He has been very frank in suggesting that while he has enthusiastically supported the proposal and did support us two times when we lost by one vote, he would be forced to oppose it now. Hope dwelleth eternally in the heart of the Senator from Indiana. I hope in the next 30 minutes the Senator from Louisiana has a message from on high causing him to change his mind. I think now is the time to do it. I think a procedural question is not nearly as significant as the importance of chilling down this inflation in the capital investment sector.

Mr. President, I yield the floor.

Mr. LONG. Mr. President, the Senate has not had a chance to act on a tax bill this year. The matter is going to be considered. The Senator's amendment is one which I supported when he offered it before. It will be considered by the House in putting together a tax reform bill. His proposal definitely will be considered in the Committee on Finance and by the Senate when the Senate takes up its tax reform bill. So this is a measure that deserves the consideration of the Senate, but it should not be on this bill.

This is a bill to permit the Government to continue to operate, to maintain its existing debt limit. There is an urgency in acting on that matter.

I say, as I said in connection with the previous amendment, that there is no way on this earth that this Senator, the Committee on Finance, or all 100 Senators can compel the House to consider this amendment. Those people have some pride. The Constitution says that they shall initiate revenue bills, and they are going to do it. To suggest otherwise is something of an affront to some very fine men in the House who have been working on this matter for some time.

Mr. President, when the time has expired I reluctantly will be compelled to move to table the amendment, because it should not be on this measure. This is not a tax bill, and strictly speaking it is not a revenue bill. This amendment should not be on this bill. Therefore, as I said, when the time expires I will move that the amendment be laid on the table.

Mr. BAYH. Mr. President, I appreciate the particular position that my friend and colleague, the Senator from Louisiana, is in relative to this particular procedural matter, inasmuch as he has lent his very valuable efforts in supporting this measure in the past.

I might emphasize a point or two that I think at least in my mind distinguishes the normal procedural reluctance to move into the tax area on a different vehicle, and suggest that this might be overcome by the following facts.

First, the measure before us is not a new measure. It has been discussed in various committees and it has been voted on twice recently. The Senator from South Carolina, who I see seated in the Chamber, was one of the major commanding generals in this effort, an effort that the Congressional Quarterly described as one of the 12 most significant efforts made in the last Congress.

As the Senator from Louisiana and I discussed it a while ago, we took this measure and we shook every bush and each time we fell one vote short. This is a matter that has been considered in the past and it is not a new matter.

Second, I do not mean to insult the prerogatives or the intelligence of our friends in the House. The fact is that both Houses have to agree, but I wonder if it would not strengthen the hand of the Senator from Louisiana if we sent the message to the House to be alerted. We would warn them on this bill and the next time they would consent. This would be plowing new ground and telling them the Senate is prepared to do something on this matter.

The second matter I would like to call to the attention of the Senate, a matter that I think is important, is the way that we in the Senate have been bombarded for about 2 years in the area of fiscal responsibility. I am getting a little tired of this. I think it is a little unjustified. Here is an opportunity for us to make a move in this area. This measure as it stands this year would bring in an additional $1.2 billion revenue if we repealed this and did away with this bonus right now.

The Joint Economic Committee suggested it might add up to as much as $30 billion between now and 1980. Let us say to the President, "Mr. President, on this bill we have added $660 million of revenues," which I support, "and $2.9 billion in social security revenue. We are going to try to fill a part of that gap by repealing this giveaway program of over $1.2 billion now."

The third matter I want to repeat is that I do not think we should overlook the argument of the present status of the economy. Back when the ADR matter was placed on the books, we thought this was a bad way to go. The Senator from South Carolina thought we should trickle up instead of down and repeal the ADR that was never going to stimulate the economy, that would be giving back interest dividends, and when you are going to give $50 to every taxpayer and let him spend it on a new suit of clothes or whatever he wishes to spend it on, we do not need to stimulate the economy now.

Particularly in the capital investment area we have a 19-percent increase compared to the historical average of between 8 and 10 percent. We are going to be in deep trouble. The latest figures show the increase in capital expenditures has gone up twice as fast as the GNP, which is unheard of. One way to get the pressure off is the repeal of ADR and to do it now.

I appreciate the position of my friend from Louisiana. I have one last item. This will be item No. 4. I wish to reiterate what the Senator from Massachusetts said.

A lot of people are wondering if we mean business on tax reform. Here is an area that is obviously a giveaway that is not needed. Let us say to the average taxpayer that somebody is listening, that the Senate is willing to stand up and be counted, that we are going to eliminate one loophole, if you call $1.2 billion a loophole. Let us give more evidence to the taxpayer who is laboring under ever-increasing inflation.

Mr. LONG. Mr. President, it is entirely possible that the Nation may be facing an economic downturn next year, and we may need to accelerate depreciation in order to keep the economy going. There is a lot of merit to the proposal, and I may support it again when the proper time and economic circumstances come to offer it on a tax bill. We are certainly going to have an opportunity to consider a tax reform measure, after the House has passed one, at some time in the future.

On that occasion I would like the opportunity to consider supporting the Senator's amendment. I regret that under the circumstances I cannot support it, because I just do not believe it belongs on this bill. I am satisfied that even if the Senate voted it, the House would not agree. It is just one more impediment on a measure that should be voted on now. The House is anxious to go to conference on it because they realize that the time may expire and this Nation may find itself in the rather unenviable position, being the richest nation on earth, of having to declare itself bankrupt by act of Congress, which is a ridiculous thing.

Mr. MUSKIE. Mr. President, the amendment proposed by the distinguished Senator from Indiana (Mr. BAYH) which I am pleased to cosponsor, is a much needed tax reform which deserves enactment now. The amendment would repeal the provision in our tax code which allows businesses to depreciate property 20 percent faster than the industry average. It would not affect the present system of computing deprecia-

tion on the basis of average lives of depreciable property. What it does do is to put an end to the unjustified advantage allowed to businesses in computation of their taxes—an advantage which cost the Federal treasury at least $860 million in 1972, and which is projected to cut Federal tax revenues by $30 billion in 1980.

This is a tax advantage which the Congress has debated at length since it was enacted in 1971. The debate came down to a question of economic priorities: whether we wanted to stimulate our sagging economy from the top down, by giving corporations tax benefits of hundreds of millions of dollars, or whether we wanted to channel our resources directly to those who needed them the most.

Mr. President, I commend the work of Senator BAYH in bringing this amendment once again before the Senate. I recognize that many in this Chamber prefer to withhold their endorsement of individual tax reform measures until a thorough tax reform package has been presented to them by the tax-writing committees. I join them in hoping we will be able to consider comprehensive tax reform this year. But in the case of ADR, I believe that the arguments have been fully laid out in the past 2 years, and that we should be prepared to take this small step toward tax reform now.

Mr. LONG. I yield back the remainder of my time, and move that the amendment be laid on the table.

Mr. BAYH. Mr. President, I yield back my time.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana (Mr. LONG) to lay on the table the amendment of the Senator from Indiana (Mr. BAYH). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "yea."

The result was announced—yeas 58, nays 33, as follows:

[No. 245 Leg.]

YEAS—58

Aiken	Ervin	Pastore
Allen	Fannin	Pearson
Baker	Fong	Pell
Bartlett	Griffin	Percy
Beall	Gurney	Randolph
Bellmon	Hansen	Ribicoff
Bennett	Hartke	Roth
Bentsen	Hatfield	Schweiker
Brock	Helms	Scott, Pa.
Buckley	Hruska	Scott, Va.
Byrd, Harry F., Jr.	Inouye	Sparkman
	Javits	Stafford
Byrd, Robert C.	Johnston	Stevens
Case	Long	Taft
Cook	Mathias	Talmadge
Cotton	McClellan	Thurmond
Dole	McClure	Tower
Domenici	Montoya	Weicker
Dominick	Nunn	Young
Eastland	Packwood	

NAYS—33

Abourezk	Haskell	McIntyre
Bayh	Hathaway	Metcalf
Bible	Hollings	Mondale
Brooke	Huddleston	Moss
Burdick	Hughes	Muskie
Cannon	Humphrey	Nelson
Chiles	Jackson	Proxmire
Church	Kennedy	Stevenson
Cranston	Magnuson	Symington
Eagleton	Mansfield	Tunney
Fulbright	McGovern	Williams

NOT VOTING—9

Biden	Goldwater	McGee
Clark	Gravel	Saxbe
Curtis	Hart	Stennis

So Mr. LONG's motion to lay Mr. BAYH's amendment on the table was agreed to.

Mr. BARTLETT. Mr. President, I have at the desk an unprinted amendment. I call it up and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

At the end of the bill, insert the following:

"That (a) section 4940(a) of the Internal Revenue Code of 1954 (relating to excise tax based on investment income) is amended by striking out '4 percent' and inserting in lieu thereof "1 percent".

"(b) The amendment made by this Act shall apply to taxable years ending after the date of enactment of this Act."

Mr. BARTLETT. Mr. President, the purpose of the proposal is to amend the Internal Revenue Code to provide for a reduction in the excise taxes to the private foundations from 4 percent to 1 percent. This would continue the very important overview audit. It would make available $42 million in additional money for distribution by various charitable concerns.

Mr. President, I would like to read part of a letter to me dated February 16, 1973, from George Shultz, Secretary of the Treasury. It gives the background of the act, and it gives part of the impact of this proposal.

I read from the Secretary's letter:

In the Tax Reform Act of 1969, Congress classified charitable organizations as either public or private, depending on the amount of financial support they receive from the general public. Public charities were felt to be responsive to the public by virtue of such support. If an organization is not publicly supported, Congress determined that it would not receive significant public scrutiny and hence should be subjected to greater restrictions than public charities. Congress classified such an organization as a private foundation, and in addition, imposed a 4 percent tax on its investment income. This treatment is applicable to approximately 30,000 organizations which discharge very worthy charitable functions but, because they do not seek and rely on public support, are classified as private foundations under the Tax Reform Act provisions.

It seems clear that the 4 percent tax does subtract materially from the funds available for charitable purposes. I would like to point out, however, that the Administration's tax reform proposals of April 22, 1969, did not include a recommendation that such a tax be imposed. The tax reform bill on the House side imposed a 7½ percent tax. The Treasury recommendations to the Senate Finance Committee in September 1969 stated that, in lieu of such a levy, a supervision tax should be imposed to offset the cost of administering the audit program for foundations. We estimated at that time that 2 percent of net investment income would be sufficient for this purpose. Although the Senate version of the tax reform bill was generally in accord with our September 1969 recommendations, the Conference Committee adopted the 4 percent tax which now appears in the statute.

My staff today contacted the IRS, the Private Foundations Division, and talked to Mr. Mike Repass and determined that the cost of administering private foundations overview audit for 1971 and 1972 amounted to $12.9 million. For the year 1972–73, it is an estimated $12.3 million. It is going down because of improvements in the art.

The income from the excise taxes for 1971–72 amounted to $56 million. And the estimate for 1972–73 is $56 million to $57 million.

One percent of that figure would be $14 million in excess of the estimated $12.3 million that is needed for the overview audit.

The purpose was to have an overview audit so that the purposes for which a charity was created could be observed to see if they were being met and to see if applicable reasons were also being met.

The purpose was also to offset the extra cost of this overview audit, because this cost is only one-fourth of the tax now levied. This proposal suggests that it be reduced to an amount that would cover it, but that would free $42 million of charitable contributions.

I know that in my State this would mean that certain hospitals, certain colleges and universities which receive additional contributions because of the money that is now going to taxes in the general fund will benefit. This will be very beneficial to the various charitable purposes of our State.

And I feel that this is a very effective method of improving the contributions to charity in this country.

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

Mr. BARTLETT. I yield.

Mr. BENNETT. I agree completely with the proposal of the Senator, but as a member of the Committee on Finance, I think I am bound by the position that the chairman has taken. I think we have had two votes that indicate that the Senate, however narrowly, will support the chairman.

Therefore, I would earnestly suggest,

now that the record has been made, that if the Senator will withdraw his amendment, I am sure the chairman would join me in agreeing that when the tax bill comes over from the House of Representatives, if no proposal in this area is contained in it, we will be very happy to see that the Senator's proposal is considered as an amendment, and that those who might want to appear as witnesses to discuss it will have that opportunity.

Mr. LONG. Mr. President, I join the Senator from Utah in that assurance.

Mr. BENNETT. I think this is something we must do, and I would seriously recommend that action to the Senator.

Mr. BARTLETT. Mr. President, I thank the Senator from Utah and the Senator from Louisiana. I appreciate their knowledge in this area, and their interest in having a hearing and having consideration of this proposal. I accept the suggestion, and I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished colleague very much. Let me say that there is certainly merit in the consideration of this proposal. When you consider the opportunities that we have to make significant contributions to worthwhile charities in this country, there is much to commend the impulse that prompts the Senator from Oklahoma to present his amendment now. I am pleased indeed that the distinguished chairman of the committee (Mr. LONG) and the distinguished ranking minority member (Mr. BENNETT) have indicated their willingness to see that this proposal is given consideration.

Because of a similar situation last year when we were voting on a similar measure, I can appreciate the pressures that everyone is under and the constraints we all feel obliged to recognize. For that reason, I join with the other Senators in complimenting the Senator for having brought the proposal before us, and the action he proposes to take.

Mr. BARTLETT. I thank the Senator from Wyoming, and I appreciate the suggestion of the Senator from Utah and the Senator from Louisiana. I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. The amendment is withdrawn.

AMENDMENT NO. 215 (AS MODIFIED)

Mr. HUMPHREY. Mr. President, I call up my amendment No. 215.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment.

Mr. HUMPHREY. Mr. President, I ask to modify the amendment as follows:

On page 1, by striking out lines 1 through 9, and on page 2, by striking out lines 1 through 3.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. HUMPHREY. It is so modified.

Mr. HUMPHREY's amendment, as modified, is as follows:

At the end of the bill, insert the following:
(a) Section 6096(c) of the Internal Revenue Code of 1954 (relating to manner and time of designation) is amended—

(1) by striking out ", in such manner as the Secretary or his delegate may prescribe by regulations", and

(2) by adding at the end thereof the following new sentence: "Such designation shall be made in such manner as the Secretary or his delegate prescribes by regulations except that, if such designation is made at the time of filing the return of the tax imposed by chapter 1 for such taxable year, such designation shall be made on the first page of the return."

(b) The amendments made by this section shall apply with respect to taxable years ending after the date of enactment of this Act.

SEC. 2. The Secretary of the Treasury shall cause the publishing and broadcasting of information concerning the Presidential Election Campaign Fund Act during each year, with particular emphasis upon the taxpayer's right to designate a portion of his tax payment for payment into the Presidential Election Campaign Fund for the use of the candidates of a political party without any increase in his tax liability. The Secretary shall report to the Congress not later than the first day of September of each year a detailed account of the means by which he intends to carry out his duty under this section, which shall include, but not be limited to, a description of facsimile copy of all public notices, the availability of such notices to broadcasting stations, and any other arrangements he may have made to publicize the fund and the taxpayers' right of designation under section 6096 of the Internal Revenue Code of 1954.

Mr. HUMPHREY. Mr. President, this amendment is not complicated. It relates to action which Congress has taken in the past year concerning the dollar checkoff system for public financing of Presidential elections.

I cannot think of anything that is more timely, or any proposition that requires more sincere and purposeful consideration on our part at this time.

This amendment consists of two parts. The first would require the Internal Revenue Service to place the checkoff box on the front page of the return. No other schedules or forms would be necessary. The second part of the amendment would require the IRS to submit to the Congress by September 1 of each year in detail outline of its information campaign to further public understanding of the dollar checkoff opportunity. The need for this amendment becomes increasingly more apparent as the days go on and the influence of big money in politics grows even more disturbing. My amendment will quicken the process of reform in campaign financing and it will work to show that Presidential campaigns can be run without the tremendous influence of big money from powerful interests.

Mr. President, the American public expects us to do something about this matter. The lesson of Watergate and of the entire 1972 campaign is clear. As long as we perpetuate a system of campaign financing that not only relies on but actually encourages large contributions from wealthy contributors, we will have a government responsive to money interests rather than to human interests.

Campaign costs for all elective offices in the United States last year reached the staggering figure of $400 million, with one single committee alone, the Committee To Reelect the President, spending over $50 million. Stories of suitcases full of money coming into Washington and funds filtering through foreign banks to be "laundered" have been widely reported.

The need for reform in campaign financing is greatest, to use that popular expression, "Now More Than Ever." There are many areas in which reform would produce great benefits both for the public and for the political system as a whole. First, complete disclosure of all receipts and expenditures is necessary to maintain accountability to the public. It is those private transactions that took place in 1972 that aroused the most suspicion, and rightfully so. Second, limitations of the amount of campaign spending will represent a big step in the direction of halting the huge increases that have characterized presidential campaigns for two decades. Limitations should also apply to the amount that one individual can donate to a campaign.

Finally, there should be an election review board which oversees all the aspects of political campaigns. The temptation to politicize the Justice Department, which currently has jurisdiction over such matters, is or has been apparently too great to resist. Therefore, an independent body is necessary to properly execute the election laws in an impartial and nonpartisan manner.

Mr. President, I have called for public financing of Presidential campaigns for a long time, and the dollar checkoff system, while not a complete cure for all the shortcomings in campaign finance practices, represented the first widespread effort to finance the campaign with public rather than private money. Yet, the results from the checkoff system in its first year of use were very discouraging, and it is crucial to examine the reasons behind this poor performance. When he signed this provision into law, President Nixon expressed confidence that the Congress would soon appreciate its defects and repeal it. The President then went about seeing to it that his prediction would become true, because the Internal Revenue Service proceeded to obstruct and thwart the intent of the Congress. The IRS sabotaged the checkoff plan by excluding it from the regular income-tax form and making the separate form difficult to obtain. The 17 million taxpayers who use the form 1040A would not even receive the form necessary to earmark $1 for political purposes.

Moreover, any efforts on the part of the IRS to notify the public of the availability of this checkoff could hardly be termed strenuous. In fact, it seems that the checkoff is one of the best kept secrets in the Nation. Only 3.1 percent of all taxpayers availed themselves of the checkoff, but who could fault those who failed to do so with all the obstacles that were placed in their way.

The President has made his position on the checkoff indisputably clear. He only signed it after he had assurances that the plan would not be implemented until after his forthcoming election. Evidently, he was confident of a huge Republican campaign chest in 1972. But apparently the lesson of Watergate has not

gone completely unnoticed by the President. In his message to Congress he has said:

I believe that reform is essential. A thoroughgoing reform of campaign practices in our Federal elections ranks high on our list of national priorities.

It is time for the President to demonstrate his genuine interest in reform through actions rather than strictly through words. I have made repreated statements in the past noting my efforts to determine who is responsible for the sluggishness with which the checkoff system has been implemented.

Mr. President, for example, on May 9, 1973, I wrote to Secretary of Treasury George P. Shultz and asked him to provide my office with a complete accounting of the results of the first years participation in the checkoff system. I also asked for the number of public service announcements prepared and actually used by the IRS to publicize the dollar checkoff. This letter has previously been printed in the CONGRESSIONAL RECORD on June 8, 1973. Today is June 27. I have not yet had a reply to my letter.

My amendment No. 215, I believe, will accomplish by law what I have attempted to accomplish through letter and suggestion. It is time that the Treasury Department comply with the intent and spirit of the dollar checkoff plan. To repeat, Mr. President, the first amendment requires that, starting next year, the $1 checkoff appear on the front page of the taxpayer's return. In addition, since the IRS has done little to publicize the checkoff this year, it also requires that the Secretary of the Treasury report to Congress by September 1 of each year a plan of affirmative dissemination of information concerning the checkoff. This publicity should familiarize the public with the method of using the checkoff as well as informing them that one's use of the checkoff will not increase their personal taxes.

Mr. President, there is no need to prolong the debate. I want simply to remedy what I thought was an unfortunate development in the Internal Revenue program in carrying out the checkoff system for campaign contributions last year. The Internal Revenue Service, as we know, had a separate tax form to be filled out by those persons who wished to contribute $1 of their income tax to the party of their choice.

Many people have informed us that they did not know about it. It was a separate form which did not receive the attention that the ordinary income tax return receives.

My amendment does two things. It places on page 1 of the short or long version of the tax return the information about and the proper lines and boxes for the purpose of permitting the taxpayer to check off for the party of his choice or for the nonpartisan contribution to be distributed under formula, $1 out of said person's income tax returns.

Mr. President, it is imperative that the Congress take positive action in redressing the ill-handling of this system by the Internal Revenue Service. I hope the Senate will accept my amendment No. 215.

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

Mr. HUMPHREY. I yield to the Senator from Rhode Island.

Mr. PASTORE. This idea is not new, Mr. President. It was the idea of the distinguished chairman of the Finance Committee, and when he squelched it for strategic purposes, he could not thereafter advance the amendment, and I took the responsibility and proposed the amendment, and it was passed.

Whether or not this will survive in conference I do not know, but I hope it will be taken to conference, because after all, this is an important matter, considering the scandal of Watergate today, and the harm that is being done by excessive money and what it does to a lot of people who ordinarily may be leading decent lives, but succumb to the temptation of money and greed. We are listening to that every day.

The point here is that there has been a feeling on the part of the administration that somehow they should scuttle this thing by a subterfuge, and what they have done is require a special form that is not connected with the regular form. I have received many letters from people who say they could not even get the form.

All we are saying here is this: We are telling the American taxpayer that out of the money that he owes the U.S. Government, out of the money that he has got to pay, he can allocate that one dollar to build up a fund so that the President of the United Stats will be beholden to no one and be absolutely unfettered to carry on the business of this country, without these thousand-dollar dinners, $500 dinners, and all these contributions that sometimes have gone up to a million or $2 million. I think that has become rather scandalous, and I would hope an amendment of this kind would be taken to conference, if only to show the purpose of the Senate that we mean business in this, and whether it is done now or later, I hope the purposes of the Senator's amendment will be carried out.

Mr. HUMPHREY. Mr. President, so the record will be very clear, the distinguished Senator from Rhode Island and the distinguished chairman of the Finance Committee have been the prime movers in the Senate on the whole subject of what we call the checkoff system of private financing. I certainly do not claim any pride of authorship. The only purpose of my amendment is to remedy what I believe was a regrettable mistake in 1972.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the analysis of the Presidential Campaign Fund Act. This analysis was prepared by the Congressional Research Service of the Library of Congress. It provides full and accurate information on all provisions of the act.

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

THE PRESIDENTIAL ELECTION CAMPAIGN FUND ACT—A DISCUSSION OF SOME OF THE MAJOR PROVISIONS OF THE 1971 FEDERAL INCOME TAX CHECHOFF LAW TO FUND PRESIDENTIAL CANDIDATES

I. INTRODUCTION

On December 10, 1971, President Nixon signed into law Public Law 92–178, the Revenue Act of 1971.

For purposes of this memorandum, the significant provisions of the new tax laws are to be found in Title VIII of the Revenue Act of 1971.

In Title VIII is provided a method for using a portion of the Federal Government revenues which are raised by the income tax payments to fund the political campaigns for Presidential candidates.

Title VIII also contains provisions limiting the amounts which candidates for Presidential office may expend in their compaigns, limiting the expenditures which may be made by certain political committees, and requiring candidates to file disclosure reports of their campaign financing.

The new tax law also contains tax incentives to encourage citizens to make contributions to political candidates (Title VII).

Both the tax incentive provisions and the tax check off provisions of the new law are quoted in this memorandum at Appendix A.

Below, in question and answer form, is a discussion of the checkoff provisions.

II. DISCUSSION

How the money is obtained for the Presidential election campaign fund

(1) Where will the money come from to provide the public funds to be used by candidates for Presidential office?

Each person who pays Federal income taxes is entitled to designate $1 of his Federal income tax payment ($2 for a joint return) to be placed in a Presidential Election Campaign Fund to be used for financing the political campaigns of candidates for Presidential office (Sec. 802).

(2) What happens if there are insufficient funds in the account of any party which would be entitled to public financing?

If the candidates of a political party elect public financing, payments to the candidates can be made only out of the special account designated for that party. However, if at the beginning of the campaign period there is insufficient money in any account to satisfy the entitlement of the party, the money in the non-partisan general account will be allocated to all the special accounts in the ratio of the balances in those accounts.

No amount can be allocated to a special account in an amount greater than the smallest mount needed by a major party to bring it up to its entitlement (Sec. 9006).

Taxpayer's control over disposition of his dollar

(3) May the taxpayer designate which candidate is to receive his tax dollar?

Yes, the taxpayer, at the time of electing that $1 of his tax payment was to go to defray the costs of a Presidential political campaign, may also indicate his wish that his dollar be made available to the candidate nominated by the party of his choice, or in the alternative, the taxpayer may indicate that he wished the $1 to be placed in a general campaign fund available for all candidates, as needed to provide designated sums of money for their campaigns (Sec. 802).

(4) If the tax checkoff plan goes into effect will a tax dollar automatically be deducted from every tax payment?

No, if the taxpayer does not specifically direct that his tax dollar is to be used for political purposes, a dollar is not transferred

from the general revenues into the special Fund to be maintained for this purpose.

Candidates who are entitled to public financing

(5) Are candidates for all elective Federal office entitled to payments out of the public campaign fund?

No, the only candidates who are entitled to money from the tax checkoff fund are those who are running for office of President or Vice President (Sec. 9002 (2)).

(6) Is public financing available for Presidential candidates in primary elections?

No, public funds will be available only for general elections and not for primary elections, or other forms of the nominating process (Sec. 9002 (2)).

(7) Must a Presidential candidate accept public financing?

No, a candidate has the option of accepting public money or financing his campaign from private sources.

(8) May candidates who accept public funds also accept private funds?

Yes, under certain circumstances.

Candidates who accept public funds for their campaign financing are limited in the amount they can spend in their campaign to the entitlement as determined by the formula in the tax checkoff law.

If there are sufficient public funds to meet their entire allowance under the formula, candidates who accept public financing may not also accept and spend money from private sources.

However, if there are not sufficient funds in the tax account to completely meet a candidate's allotment, he is permitted to raise the difference between what is available to him in the publicly financed fund and what he is permitted to spend under the tax checkoff law formula (Sec. 9003).

Administration of the fund

(9) Who certifies the amount of public money payable to candidates?

The Comptroller General will certify the amount payable out of the accounts to the eligible candidates, that is, candidates who elect public financing (Sec. 9003).

A Federal Election Campaign Fund Advisory Board is to be created to assist the Comptroller General in performing his duties under the tax checkoff law (Sec. 9021).

(10) Since the tax checkoff bill has been signed into law by the President, will the public funds for candidates be automatically available in 1976?

No, the checkoff funds will not be automatically available to candidates in 1976. They will only be made available to candidates after the funds have been specifically appropriated by Congress through the normal appropriation process.

The amount of public money each candidate is entitled to

(11) What determines how much a candidate is entitled to out of the public fund?

The amount which Presidential candidates are entitled to receive from the public fund is based on whether they are "major party" or "minor party" candidates (Sec. 9004).

(12) How are "major," "minor" and "new" parties defined?

A "major party" is a party which in the preceding Presidential election received 25% or more of the total number of popular votes received by all candidates for President in that election (Sec. 9002(6)).

A "minor party" is one that received more than 5% but less than 25% of the popular vote in the preceding Presidential election (Sec. 9002(7)).

A "new" party for purposes of being eligible to share in the public financing is one which is neither a majority party nor a minority party (Sec. 9002(8)).

(13) How much are major party candidates entitled to?

The major party candidates are entitled to receive from the fund accumulated from such tax payments an amount which equals 15 cents per person age 18 and over. Based upon the present population, it is estimated that this formula would produce about $20.4 million for each of the two major party candidates (Sec. 9004(a)(1)).

(14) How much are minor party candidates entitled to?

The minor party candidates are each entitled to receive from the tax revenue, the same proportion of the fund which their vote in the last election bore to the major party vote. Based upon present population, it is estimated that a minor party candidate, such as George Wallace, would be entitled to receive about $6 million.

Also, a minor party candidate can increase his basic entitlement, if the minor party's proportion of votes in the current election exceeds its proportion of votes in the preceding presidential election (Sec. 9004 (a)(2)).

(15) If the new party does get more than 5% of the vote, how much of the public fund is it entitled to?

The new party is entitled to receive that percentage of the entitlement of a major party which the new party's vote in the current election is of the average number of popular votes received in that election by the major parties only if its candidates receive 5% or more of the total popular vote cast for the office of President.

Limitations on campaign expenditures

(16) Does the checkoff law place limitations on overall campaign expenditures?

Yes, public financing provides funds for the campaign period and establishes limits on total expenditures for such period beginning with the date on which the first major party nominates its candidate for President and ending on the date 30 days after the election, (Sec. 9003).

The expenditure limits are different for major parties than for minor and new parties.

If a major party elects to take public financing, it cannot spend in the general election campaign more than its entitlement, (15 cents time the number of residents of the United States who are 18 years old or older in the preceding year).

A minor or new party must agree that it will not spend more in the general campaign than the amount of the entitlement of a major party, and that it will return campaign contributions to the extent they exceed the campaign expenses not covered by public financing (Sec. 9003).

Committees which are not authorized by the candidate may not expend more than $1000 during the general campaign on behalf of the candidacy of the eligible candidates of a party (Sec. 9012(f)).

Limitations on campaign contributions

(17) Does the checkoff law place limitations on campaign contributions from private sources?

Yes, but the rules are different for major parties than for minor and new parties.

A major party cannot accept contributions for the general election campaign if there is sufficient money in its special account to make up its full entitlement.

However, if there is some money in its account but not sufficient to meet its full entitlement, a major party may accept money from private sources but only to the extent of the deficit in its fund (Sec. 9003(b)).

A minor or new party can accept contributions from private sources, but it must agree that it will not spend more in the general campaign than the amount of the general entitlement of a major party and that it will return campaign contributions to the extent that they exceed the campaign expenses not covered by public financing (Sec. 9003(c)).

Disclosure reports

(18) Does the checkoff law require the filing of campaign financing reports?

Yes.

(19) Are such campaign financing reports required only of candidates who accept public financing?

No, campaign expenditure disclosure reports are required to be filed by all candidates for President and Vice President whether or not they have elected to take public financing (Sec. 9003).

(20) With whom must such expenditure disclosure reports be filed?

Candidates for President and Vice President must file disclosure reports with the Comptroller General (Sec. 9003(a)).

(21) What are the Comptroller General's duties with respect to such disclosure reports?

The Comptroller General must publish in the Federal Register a summary of expenditures made by candidates for Presidential office (Sec. 9008(b)).

(22) What items must be reported in the disclosure reports?

Eligible candidates must file with the Comptroller General a detailed statement of expenditures and a list of committees who are authorized to spend money on their behalf.

Expenditure reports must also include the amounts spent by committees whether or not authorized or recognized by eligible candidates (Sec. 9008).

(23) How are the requirements of the law going to be enforced?

There are criminal penalties for willful violations of the law.

(24) In what year do the public funds first become available to candidates?

Candidates would first be entitled to receive checkoff funds in the 1976 Presidential election (Sec. 302).

(25) What is the first income tax return that taxpayers can checkoff for political contributions?

Taxpayers will be entitled to start checking off their contributions on their Federal income tax returns for the calendar year 1972 (Sec. 802).

1971 tax checkoff plan compared with 1966 tax checkoff plan

(26) How does the 1971 tax checkoff plan to finance Presidential elections differ from the 1966 law containing public campaign financing provisions?

The 1966 plan (P.L. 89–809) did not permit the taxpayer to indicate to whom he wished his tax dollar to go.

The 1966 plan would have divided the campaign fund evenly between the Republican and Democratic parties and a share of the fund would be given to minor parties that won at least five million votes in the preceding Presidential election.

The funds from the 1971 plan would be paid to the candidates and not to the political parties.

ELIZABETH YADLOSKY,
Legislative Attorney, American Law Division, December 22, 1971, Ext. 6006.

APPENDIX A: TEXT OF THE 1971 TAX CHECKOFF LAW—PUBLIC LAW 92–178, 92D CONGRESS, H.R. 10947, DECEMBER 10, 1971

An act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes

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

SECTION 1, SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1971".

(b) TABLE OF CONTENTS.—

TITLE VII—TAX INCENTIVES FOR CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE
Sec. 701. Allowance of credit.
Sec. 702. Deduction in lieu of credit.
Sec. 703. Effective date.
TITLE VIII—FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS
Sec. 801. Presidential Election Campaign Fund Act.
Sec. 802. Miscellaneous amendments.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1951.

TITLE VII—TAX INCENTIVES FOR CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE

SEC. 701. ALLOWANCE OF CREDIT.

(a) Subpart A of part IV subchapter A of chapter 1 (relating to credits against tax) is amended by inserting after section 40 (as added by section 601 of this Act) the following new section:

"SEC. 41. CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter for the taxable year, an amount equal to one-half of all political contributions, payment of which is made by the taxpayer within the taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a taxable year shall be limited to $12.50 ($25 in the case of a joint return under section 6013).

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property).

"(3) VERIFICATION.—The credit allowed by subsection (a) shall be allowed, with respect to any political contribution, only if such political contribution is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"(c) DEFINITIONS.—For purposes of this section—

"(1) POLITICAL CONTRIBUTION.—The term 'political contribution' means a contribution or gift of money to—

"(A) an individual who is a candidate for nomination or election to any Federal, State, or local elective public office in any primary, general, or special election, for use by such individual to further his candidacy for nomination or election to such office;

"(B) any committee, association, or organization (whether or not incorporated) organized and operated exclusively for the purpose of influencing or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to any Federal, State, or local elective public office, for use by such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to such office;

"(C) the national committee of a national political party;

"(D) the State committee of a national political party as designated by the national committee of such party; or

"(E) a local committee of a national political party as designated by the State committee of such party designated under subparagraph (D).

"(2) CANDIDATE.—The term 'candidate' means, with respect to any Federal, State, or local elective public office, an individual who—

"(A) has publicly announced that he is a candidate for nomination or election to such office; and

"(B) meets the qualifications prescribed by law to hold such office.

"(3) NATIONAL POLITICAL PARTY.—The term 'national political party' means—

"(A) in the case of contributions made during a taxable year of the taxpayer in which the electors of President and Vice President are chosen, a political party presenting candidates or electros for such offices on the official election ballot of ten or more States, or

"(B) in the case of contributions made during any other taxable year of the taxpayer, a political party which met the qualifications described in subparagraph (A) in the last preceding election of a President and Vice President.

"(4) STATE AND LOCAL.—The term 'State' means the various States and the District of Columbia; and the term 'local' means a political subdivision or part thereof, or two or more political subdivisions or parts thereof, of a State.

"(d) CROSS REFERENCES.—

"For disallowance of credits to estates and trusts, see section 642(a)(3)."

(b) Section 642(a) (relating to credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(3) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the credit against tax for political contributions provided by section 41."

SEC. 702. DEDUCTION IN LIEU OF CREDIT.

(a) Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 218 as 219, and by inserting after section 217 the following new section:

"SEC. 218. CONTRIBUTION TO CANDIDATES FOR PUBLIC OFFICE.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction any political contribution (as defined in section 41(c)(1)) payment of which is made by such individual within the taxable year.

"(b) LIMITATIONS.—

"(1) AMOUNT.—The deduction under subsection (a) shall not exceed $50 ($100 in the case of a joint return under section 6013).

"(2) VERIFICATION.—The deduction under subsection (a) shall be allowed, with respect to any political contribution, only if such political contribution is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"(c) ELECTION.—TO TAKE CREDIT IN LIEU OF DEDUCTION.—This section shall not apply in the case of any taxpayer who, for the taxable year, elects to take the credit against tax provided by section 41 (relating to credit against tax for contributions to candidates for public office). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.

"(d) CROSS REFERENCE.—

"For disallowance of deduction to entries and trusts, see section 642(1)."

(b) Section 642 (relating to special rules for credits and deductions for estates and trusts) is amended by redesignating subsection (i) as subsection (j), and by inserting after subsection (h) a new subsection as follows:

"(i) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the deduction for contributions to candidates for public office provided by section 218."

(c) The table of sections of part VII of subchapter B of chapter 1 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 218. Contributions to candidates for public office.
"Sec. 219. Cross references."

SEC. 703. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years ending after December 31, 1971, but only with respect to political contributions, payment of which is made after such date.

TITLE VIII—FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

SEC. 801. PRESIDENTIAL ELECTION CAMPAIGN FUND ACT.

The Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subtitle:

"SUBTITLE H—FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

"Chapter 95. Presidential election campaign fund.
"Chapter 96. Presidential election campaign fund advisory board.

"CHAPTER 95—PRESIDENTIAL ELECTION CAMPAIGN FUND

"Sec. 9001. Short title.
"Sec. 9002. Definitions.
"Sec. 9003. Condition for eligibility for payments.
"Sec. 9004. Entitlement of eligible candidates for payments.
"Sec. 9005. Certification by Comptroller General.
"Sec. 9006. Payments to eligible candidates.
"Sec. 9007. Examinations and audits; repayments.
"Sec. 9008. Information on proposed expenses.
"Sec. 9009. Reports to Congress; regulations.
"Sec. 9010. Participation by Comptroller General in judicial proceedings.
"Sec. 9011. Judicial review.
"Sec. 9012. Criminal penalties.
"Sec. 9013. Effective date of chapter.

"SEC. 9001. SHORT TITLE.

"This chapter may be cited as the 'Presidential Election Campaign Fund Act'.

"SEC. 9002. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'authorized committee' means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Comptroller General. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

"(2) The term 'candidate' means, with respect to any presidential election, an individual who (A) has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party, or (B) has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States. For purposes of paragraphs (6) and (7) of this section and purposes of section 9004(a)(2), the term 'candidate' means, with respect to any preceding presidential election, an individual who received popular votes for the office of President in such election.

"(3) The term 'Comptroller General' means the Comptroller General of the United States.

"(4) The term 'eligible candidates' means the candidates of a political party for President and Vice President of the United

States who have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003.

"(5) The term 'fund' means the Presidential Election Campaign Fund established by section 9006(a).

"(6) The term 'major party' means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

"(7) The term 'minor party' means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office.

"(8) The term 'new party' means, with respect to any presidential election, a political party which is neither a major party nor a minor party.

"(9) The term 'political committee' means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

"(10) The term 'presidential election' means the election of presidential and vice-presidential electors.

"(11) The term 'qualified campaign expense' means an expense—

"(A) incurred (i) by the candidate of a political party for the office of President to further his election to such office or to further the election of the candidate of such political party for the office of Vice President, or both (ii) by the candidate of a political party for the office of Vice President to further his election to such office or to further the election of the candidate of such political party for the office of President, or both, or (iii) by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such offices,

"(B) incurred within the expenditure report period (as defined in paragraph (12)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

"(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee. If an authorized committee of the candidates of a political party for President and Vice President of the United States also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidates for President and Vice President in such proportion as the Comptroller General prescribes by rules or regulations.

"(12) The term 'expenditure report period' with respect to any presidential election means—

"(A) in the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party at its national convention nominated its candidate for election to the office of President of the United States, and ending 30 days after the date of the presidential election; and

"(B) in the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such presidential election under subparagraph (A).

"SEC. 9003. CONDITION FOR ELIGIBILITY FOR PAYMENTS.

"(a) IN GENERAL.—In order to be eligible to receive any payments under section 9006, the candidates of a political party in a presidential election shall, in writing—

"(1) agree to obtain and furnish to the Comptroller General such evidence as he may request of the qualified campaign expenses with respect to which payment is sought,

"(2) agree to keep and furnish to the Comptroller General such records, books, and other information as he may request,

"(3) agree to an audit and examination by the Comptroller General under section 9007 and to pay any amounts required to be paid under such section, and

"(4) agree to furnish statements of qualified campaign expenses and proposed qualified campaign expenses required under section 9008.

"(b) MAJOR PARTIES.—In order to be eligible to receive any payments under section 9006, the candidates of a major party in a presidential election shall certify to the Comptroller General, under penalty of perjury, that—

"(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which they will be entitled under section 9004, and

"(2) no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11) have been or will be accepted by such candidates or any of their authorized committees.

Such certification shall be made within such time prior to the day of the presidential election as the Comptroller General shall prescribe by rules or regulations.

"(c) MINOR AND NEW PARTIES.—In order to be eligible to receive any payments under section 9006, the candidates of a minor or new party in a presidential election shall certify to the Comptroller General, under penalty of perjury, that—

"(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004, and

"(2) such candidates and their authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidates and their authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidates out of the fund pursuant to section 9006.

Such certification shall be made within such time prior to the day of the presidential election as the Comptroller General shall prescribe by rules or regulations.

"SEC. 9004. ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

"(a) IN GENERAL.—Subject to the provisions of this chapter—

"(1) The eligible candidates of a major party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to 15 cents multiplied by the total number of residents within the United States who have attained the age of 18, as determined by the Bureau of the Census, as of the first day of June of the year preceding the year of the presidential election.

"(2)(A) The eligible candidates of a minor party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding presidential election.

"(B) If the candidate of one or more political parties (not including a major party) for the office of President was a candidate for such office in the preceding presidential election and received 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office, such candidate and his running mate for the office of Vice President, upon compliance with the provisions of section 9003 (a) and (c), shall be treated as eligible candidates entitled to payments under section 9006 in an amount computed as provided in subparagraph (A) by taking into account all the popular votes received by such candidate for the office of President in the preceding presidential election. If eligible candidates of a minor party are entitled to payments under this subparagraph, such entitlement shall be reduced by the amount of the entitlement allowed under subparagraph (A).

"(3) The eligible candidates of a minor party or a new party in a presidential election whose candidate for President in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for the office of President in such election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for President of the major parties. In the case of eligible candidates entitled to payments under paragraph (2), the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under paragraph (2).

"(b) LIMITATIONS.—The aggregate payments to which the eligible candidates of a political party shall be entitled under subsections (a) (2) and (3) with respect to a presidential election shall not exceed an amount equal to the lower of—

"(1) the amount of qualified campaign expenses incurred by such eligible candidates and their authorized committees, reduced by the amount of contributions to defray qualified campaign expenses received and expended or retained by such eligible candidates and such committees, or

"(2) the aggregate payments to which the eligible candidates of a major party are entitled under subsection (a)(1), reduced by the amount of contributions described in paragraph (1) of this subsection.

"(c) RESTRICTIONS.—The eligible candidates of a political party shall be entitled to payments under subsection (a) only—

"(1) to defray qualified campaign expenses incurred by such eligible candidates or their authorized committees, or

"(2) to repay loans the proceeds of which

were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidates or such committees) used to defray such qualified campaign expenses.

"SEC. 9005. CERTIFICATION BY COMPTROLLER GENERAL.

"(a) INITIAL CERTIFICATIONS.—On the basis of the evidence, books, records, and information furnished by the eligible candidates of a political party and prior to examination and audit under section 9007, the Comptroller General shall certify from time to time to the Secretary for payment to such candidates under section 9006 the payments to which such candidates are entitled under section 9004.

"(b) FINALITY OF CERTIFICATIONS AND DETERMINATIONS.—Initial certifications by the Comptroller General under subsection (a), and all determinations made by him under this chapter, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Comptroller General under secion 9007 and judicial review under section 9011.

"SEC. 9006. PAYMENTS TO ELIGIBLE CANDIDATES.

"(a) ESTABLISHMENT OF CAMPAIGN FUND.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Presidential Election Campaign Fund'. The Secretary shall maintain in the fund (1) a separate account for the candidates of each major party, each minor party, and each new party for which a specific designation is made under section 6096 for payment into an account in the fund and (2) a general account for which no specific designation is made. The Secretary shall, as provided by appropriation Acts, transfer to each account in the fund an amount not in exess of the sum of the amounts designated (subsequent to the previous presidential election) to such account by individuals under section 6096 for payment into such account of the fund.

"(b) TRANSFER TO THE GENERAL FUND.—If, after a presidential election and after all eligible candidates have been paid the amount which they are entitled to receive under this chapter, there are moneys remaining in any account in the fund, the Secretary shall transfer the moneys so remaining to the general fund of the Treasury.

"(c) PAYMENTS FROM THE FUND.—Upon receipt of a certification from the Comptroller General under section 9005 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidates out of the specific account in the fund for such candidates the amount certified by the Comptroller General. Payments to eligible candidates from the account designated for them shall be limited to the amounts in such account at the time of payment. Amounts paid to any such candidates shall be under the control of such candidates.

"(d) TRANSFERS FROM GENERAL ACCOUNT TO SEPARATE ACCOUNTS.—

"(1) If, on the 60th day prior to the presidential election, the moneys in any separate account in the fund are less than the aggregate entitlement under section 9904(a)(1) or (2) of the eligible candidates to which such account relates, 80 percent of the amount in the general account shall be transferred to the separate accounts (whether or not all the candidates to which such seperate accounts relate are eligible candidates) in the ratio of the entitlement under section 9004(a)(1) or (2) of the candidates to which such accounts relate. No amount shall be transferred to any separate account under the preceding sentence which, when added to the moneys in that separate account prior to any payment out of that account during the calendar year, would be in excess of the aggregate entitlement under section 9004(a)(1) or (2) of the candidates to whom such account relates.

"(2) If, at the close of the expenditure report period, the moneys in any separate account in the fund are not sufficient to satisfy any unpaid entitlement of the eligible candidates to which such account relates, the balance in the general account shall be transferred to the separate accounts in the following manner:

"(A) For the separate account of the candidates of a major party, compute the percentage which the average number of popular votes received by the candidates for President of the major parties is of the total number of popular votes cast for the office of President in the election.

"(B) For the separate account of the candidates of a minor or new party, compute the percentage which the popular votes received for President by the candidate to which such account relates is of the total number of popular votes cast for the office of President in the election.

"(C) In the case of each separate account, multiply the applicable percentage obtained under subparagraph (A) or (B) for such account by the amount of the money in the general account prior to any distribution made under paragraph (1), and transfer to such separate account an amount equal to the excess of the product of such multiplication over the amount of any distribution made under such paragraph to such account.

"SEC. 9007. EXAMINATIONS AND AUDITS; REPAYMENTS.

(a) EXAMINATIONS AND AUDITS.—After each presidential election, the Comptroller General shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for President and Vice President.

"(b) REPAYMENTS.—

"(1) If the Comptroller General determines that any portion of the payments made to the eligible candidates of a political party under section 9006 was in excess of the aggregate payments to which candidates were entitled under section 9004, he shall so notify such candidates, and such candidates shall pay to the Secretary an amount equal to such portion.

"(2) If the Comptroller General determines that the eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under section 9004, he shall notify such candidates of the amount of such excess and such candidates shall pay to the Secretary an amount equal to such amount.

"(3) If the Comptroller General determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 9006(c)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), he shall notify such candidates of the amount of the contributions so accepted, and such candidates shall pay to the Secretary an amount equal to such amount.

"(4) If the Comptroller General determines that any amount of any payment made to the eligible candidates of a political party under section 9006 was used for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses,

he shall notify such candidates of the amount so used, and such candidates shall pay to the Secretary an amount equal to such amount.

"(5) No payment shall be required from the eligible candidates of a political party under this subsection to the extent that such payment, when added to other payments required from such candidates under this subsection, exceeds the amount of payments received by such candidates under section 9006.

"(c) NOTIFICATION.—No notification shall be made by the Comptroller General under subsection (b) with respect to a presidential election more than 3 years after the day of such election.

"(d) DEPOSIT OF REPAYMENTS.—All payments received by the Secretary under subsection (b) shall be deposited by him in the general fund of the Treasury.

"SEC. 9008. INFORMATION ON PROPOSED EXPENSES.

"(a) REPORTS BY CANDIDATES.—The candidates of a political party for President and Vice President in a presidential election shall, from time to time as the Comptroller General may require, furnish to the Comptroller General a detailed statement, in such form as the Comptroller General may prescribe, of—

"(1) the qualified campaign expenses incurred by them and their authorized committees prior to the date of such statement (whether or not evidence of such expenses has been furnished for purposes of section 9005), and

"(2) the qualified campaign expenses which they and their authorized committees propose to incur on or after the date of such statement.

The Comptroller General shall require a statement under this subsection from such candidates of each political party at least once each week during the second, third, and fourth weeks preceding the day of the presidential election and at least twice during the week preceding such day.

"(b) PUBLICATION.—The Comptroller General shall, as soon as possible after he receives each statement under subsection (a), prepare and publish a summary of such statement, together with any other data or information which he deems advisable, in the Federal Register. Such summary shall not include any information which identifies any individual who made a designation under section 6096.

"SEC. 9009. REPORTS TO CONGRESS; REGULATIONS.

"(a) REPORTS.—The Comptroller General shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

"(1) the qualified campaign expenses (shown in such detail as the Comptroller General determines necessary) incurred by the candidates of each political party and their authorized committees;

"(2) the amounts certified by him under section 9005 for payment to the eligible candidates of each political party; and

"(3) the amount of payments, if any, required from such candidates under section 9007, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) REGULATIONS, ETC.—The Comptroller General is authorized to prescribe such rules and regulations, to conduct such examinations and audits (in addition to the examinations and audits required by section 9007(a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as he deems neces-

sary to carry out the functions and duties imposed on him by this chapter.

"SEC. 9010. PARTICIPATION BY COMPTROLLER GENERAL IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCE BY COUNSEL.—The Comptroller General is authorized to appear in and defend against any action filed under section 9011, either by attorneys employed in his office or by counsel whom he may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation he may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) RECOVERY OF CERTAIN PAYMENTS.—The Comptroller General is authorized through attorneys and counsel described in subsection (a) to appear in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary as a result of examination and audit made pursuant to section 9007.

"(c) DECLARATORY AND INJUNCTIVE RELIEF.—The Comptroller General is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this subtitle or section 6096. Upon application of the Comptroller General, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

"(d) APPEAL.—The Comptroller General is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which he appears pursuant to the authority provided in this section.

"SEC. 9011. JUDICIAL REVIEW.

"(a) REVIEW OF CERTIFICATION, DETERMINATION, OR OTHER ACTION BY THE COMPTROLLER GENERAL.—Any certification, determination, or other action by the Comptroller General made or taken pursuant to the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such Court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Comptroller General for which review is sought.

"(b) SUITS TO IMPLEMENT CHAPTER.—

"(1) The Comptroller General, the national committee of any political party, and individuals eligible to vote for President are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this chapter.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

"SEC. 9012. CRIMINAL PENALTIES.

"(a) EXCESS CAMPAIGN EXPENSES.—

"(1) It shall be unlawful for an eligible candidate of a political party for President and Vice President in a presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004 with respect to such election.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(b) CONTRIBUTIONS.—

"(1) It shall be unlawful for an eligible candidate of a major party in a presidential election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11).

"(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a presidential election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and his authorized committees.

"(3) Any person who violates paragraph (1) or (2) shall be fined not more than $5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(c) UNLAWFUL USE OF PAYMENTS.—

"(1) It shall be unlawful for any person who receives any payment under section 9006, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(d) FALSE STATEMENTS, ETC.—

"(1) It shall be unlawful for any person knowlingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Comptroller General under this subtitle, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Comptroller General or an examination and audit by the Comptroller General under this chapter; or

"(B) to fail to furnish to the Comptroller General any records, books, or information requested by him for purposes of this chapter.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(e) KICKBACKS AND ILLEGAL PAYMENTS.—

"(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees shall pay to the Secretary, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

"(f) UNAUTHORIZED EXPENDITURES AND CONTRIBUTIONS.—

"(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to the eligible candidates of a political party for President and Vice President in a presidential election knowingly and willfully to incur expenditures to further the election of such candidates, which would constitute qualified campaign expenses if incurred by an authorized committee of such candidates, in an aggregate amount exceeding $1,000.

"(2) This subsection shall not apply to (A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication,, in reporting the news or in taking editorial positions, or (B) expenditures by any organization described in section 501(c) which is exempt from tax under section 501(a) in communicating to its members the views of that organization.

"(3) Any political committee which violates paragraph (1) shall be fined not more than $5,000, and any officer or member of such committee who knowingly and willfully consents to such violation and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(g) UNAUTHORIZED DISCLOSURE OF INFORMATION.—

"(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this chapter except as may be required by law.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"SEC. 9013. EFFECTIVE DATE OF CHAPTER.

"The provisions of this chapter shall take effect on January 1, 1973.

"CHAPTER 96. PRESIDENTIAL ELECTION CAMPAIGN FUND ADVISORY BOARD

"SEC. 9021. ESTABLISHMENT OF ADVISORY BOARD.

"(a) ESTABLISHMENT OF BOARD.—There is hereby established an advisory board to be known as the Presidential Election Campaign Fund Advisory Board (hereinafter in this section referred to as the 'Board'). It shall be the duty and function of the Board to counsel and assist the Comptroller General of the United States in the performance of the duties and functions imposed on him under the Presidential Election Campaign Fund Act.

"(b) COMPOSITION OF BOARD.—The Board shall be composed of the following members:

"(1) the majority leader and minority leader of the Senate and the Speaker and minority leaders of the House of Representatives, who shall serve ex officio;

"(2) two members representing each political party which is a major party (as de-

fined in section 9002(6)), which members shall be appointed by the Comptroller General from recommendations submitted by such political party; and

"(3) three members representing the general public, which members shall be selected by the members described in paragraphs (1) and (2).

The terms of the first members of the Board described in paragraphs (2) and (3) shall expire on the sixtieth day after the date of the first presidential election following January 1, 1973, and the terms of subsequent members described in paragraphs (2) and (3) shall begin in the sixty-first day after the date of a presidential election and expire on the sixtieth day following the date of the subsequent presidential election. The Board shall elect a Chairman from its members.

"(c) COMPENSATION.—Members of the Board (other than members described in subsection (b)(1) shall receive compensation at the rate of $75 a day for each day they are engaged in performing duties and functions as such members, including traveltime, and while away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

"(d) STATUS.—Service by an individual as a member of the Board shall not, for purposes of any other law of the United States be considered as service as an officer or employee of the United States."

SEC. 802. MISCELLANOUS AMENDMENTS

(a) DESIGNATION OF INCOME TAX PAYMENTS TO PRESIDENTIAL ELECTION CAMPAIGN FUND.—Effective with respect to taxable years ending on or after December 31, 1972, section 6096 (a) (relating to designation of income tax payments to the presidential election campaign fund) is amended to read as follows:

"(a) IN GENERAL.—Every individual (other than a nonresident alien) whose income tax liability for any taxable year is $1 or more may designate that $1 shall be paid over to the Presidential Election Campaign Fund for the account of the candidates of any specified political party for President and Vice President of the United States, or if no specific account is designated by such individual for a general account for all candidates for election to the offices of President and Vice President of the United States, in accordance with the provisions of section 9006(a)(1). In the case of a joint return of husband and wife having an income tax liability of $2 or more, each spouse may designate that $1 shall be paid to any such account in the fund."

(b) REPEAL OF CERTAIN PROVISIONS.—

(1) Sections 303, 304, and 305 of the Presidential Election Campaign Fund Act of 1966 (80 Stat. 1587) are repealed.

(2) The enactment of subtitle H of the Internal Revenue Code of 1954 by section 801 of this Act is intended to comply with the provisions of section 5 (relating to the Presidential Election Campaign Fund Act of 1966) of the Act entitled "An Act to restore the investment credit and allowance of accelerated depreciation in the case of certain real property", approved June 13, 1967 (Public Law 90-26, 81 Stat. 58). The provisions of section 6096 of the Internal Revenue Code of 1954, together with the amendments of such section made by subsection (a), shall be applicable only to taxable years ending on or after December 31, 1972.

Approved December 10, 1971.

LEGISLATIVE HISTORY

House reports: No. 92-533 (Comm. on Ways and Means) and No. 92-708 (Comm. of Conference).

Senate reports: No. 92-437 (Comm. on Finance) and No. 92-553 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 117 (1971):
Oct. 5, 6, considered and passed House.
Nov. 11-13, 15-20, 22, considered and passed House.
Nov. 11-13, 15-20, 22, considered and passed Senate, amended.
Dec. 9, Senate agreed to conference report.
Dec. 9, House agreed to conference report.

Weekly Compilation of Presidential Documents, Vol. 7, No. 50: Dec. 10, Presidential statement and remarks.

Mr. LONG. Mr. President, the excuse given by the Internal Revenue that this checkoff was not on the tax return itself was that it takes up too much space, especially on the short form, and there is one form for Democrats or Republicans and then a checkoff. This measure should be modified so that it would be simple to check off the one dollar contribution. Then the Republicans would get as much as the Democrats and vice versa and a formula would be worked out for a third party. I have prepared an amendment which should be a part of this, if it is to be agreed to, to make it just a simple checkoff.

The Commissioner of Internal Revenue told me that if we could take the charge part out of it, they can put it on the front page of the tax return—and also avoiding showing what one's politics are—and then we make a contribution so that all of the people can contribute to both parties and perhaps to a third party, too. It is a nonpartisan fund. I would urge the Senator from Minnesota to accept this amendment as a modification which I have had prepared by my staff.

Mr. HUMPHREY. I am familiar with the Senator's amendment. The gentleman on my staff who has been working on that told me that he had talked with the Senator's staff members so that I understood the Senator might be interested in modifying or susbtituting an amendment to the one I have.

Mr. LONG. The argument is made, and I suspect it is valid, that the present provision makes the short form too long; this would be a simple checkoff and that is all.

Mr. HUMPHREY. The formula would designate where the funds would go; is that not correct, as the formula is prescribed in present legislation.

Mr. LONG. Yes.

Mr. HUMPHREY. So what we would be accomplishing is to get the form simplified, and have just the checkoff on it, so that there is every opportunity for the taxpayer to see it and make his contribution.

Mr. LONG. And we quit confusing people. Rather than saying both Democrats or Republicans are the party of one's choice, the taxpayer just makes a check on the tax return and in that way we can eliminate all the private contributions, which is the way it should be done, in my judgment, Senator. I have had the amendment prepared——

Mr. HUMPHREY. May I say that I would like the Senator to offer it as a modification.

Mr. LONG. Mr. President, I offer this amendment to the Senator's amendment and hope that the Senator can so modify it and accept it.

Mr. HUMPHREY. I am familiar with what the Senator is advocating and would be more than pleased to accept the modification.

Mr. LONG. Let me make the point that this neither increases nor reduces revenues to the Government.

Mr. HUMPHREY. That is correct.

Mr. LONG. I send the amendment to the desk.

The amendment reads as follows:

At the end of the bill add the following:

SEC. 3. (a) Section 6096 of the Internal Revenue Code of 1954 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out the first sentence and inserting in lieu thereof "Every individual (other than a nonresident alien) whose income tax liability for any taxable year is $1 or more may designate that $1 shall be paid over to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a)."

(b) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended to read as follows:

"SEC. 906. PAYMENTS TO ELIGIBLE CANDIDATES.

"(a) Establishment of Campaign Fund.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Presidential Election Campaign Fund'. The Secretary shall, from time to time, transfer to the fund an amount equal to the sum of the amounts designated (subsequent to the previous presidential election) to the fund by individuals under section 6096.

"(b) Transfer to the General Fund.—If, after a presidential election and after all eligible candidates have been paid the amount which they are entitled to receive under this chapter, there are moneys remaining in the fund, the Secretary shall transfer the moneys so remaining to the general fund of the Treasury.

"(c) Payments from the Fund.—Upon receipt of a certification from the Comptroller General under section 9005 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidates out of the fund the amount certified by the Comptroller General. Amounts paid to any such candidates shall be under the control of such candidates.

"(d) Insufficient Amounts in Fund.—

"(1) If at the time of a certification by the Comptroller General under section 9005 for payment to eligible candidates of a political party, the moneys in the fund are insufficient to pay to all eligible candidates the amounts to which they are then entitled (as determined by the Secretary after consultation with the Comptroller General), payments to each eligible candidates shall be reduced pro rata, and the amounts not paid at such time shall be paid when there are sufficient moneys in the fund.

"(2) If, at the close of the expenditure report period, the moneys in the fund are not sufficient to satisfy the unpaid entitlements of all eligible candidates, the balance in the fund shall be paid to eligible candidates in the following manner:

"(A) For the candidates of a major party, compute the percentage which the number of popular votes received by the candidates for President of the major parties is of the total number of popular votes cast for the office of President in the election, and divide such percentage by the number of major parties.

"(B) For the candidates of a minor or new

party, compute the percentage which the popular votes received for President by the candidate of such party is of the total number of popular votes cast for the office of President in the election.

"(C) Pay to the eligible candidates of each party the same percentage of the amount of the money in the fund as the percentage obtained under subparagraph (A) or (B) for candidates of such party."

The PRESIDING OFFICER. The amendment of the Senator from Minnesota (Mr. HUMPHREY) is modified accordingly.

Mr. LONG. The checkoff is available to the taxpayer. We place it where we intended it to be all the time, hopefully on the front of the return so that everybody will know where it is.

The way it stands now, H. R. Block charges $1.40 to fill out this separate form for someone, which is supposed to cost him nothing. So that in order to contribute $1 of his tax money, which is not supposed to cost him anything additional in the first place, in order to help take private contributions out of a Presidential campaign, it costs the taxpayer $1.40 to indicate that he wants to help make politics clean.

Mr. PASTORE. Mr. President, I quite agree with what the distinguished Senator from Louisiana (Mr. LONG) has said. As a matter of fact, I think we made a grievous mistake when we allowed the designation of different parties. Its purpose, of course, was to promote the best qualified President of the United States. All we were trying to do was to stipulate a formula whereby the major parties would be participants and also those who had a certain number of votes in the past that would qualify them. The limitation is $20 million for any candidate and once he exercises that, that is all he can spend. He cannot raise another nickel. If there is not enough money and he can only draw $17 million, and he chooses to take that, all he can do is raise privately $3 million. That is the way it should be. This is the general fund. It is very simple, if we adopt this amendment being proposed by the manager of the bill.

Mr. HUMPHREY. The amendment is thoroughly desirable. I knew that the Senator from Louisiana had this in mind. He is the "daddy" of this proposal. Between the Senator from Louisiana and the Senator from Rhode Island, with myself, hopefully, as a sort of catalyst, I hope that we can get this amendment adopted as modified.

Mr. JAVITS. Mr. President, I have no illusions about whether this will fully finance a campaign or not, but I think it is the right track, just as the idea of shortening the campaign is the right track. I hope that we will ultimately—and this goes especially to my beloved friend from Rhode Island—now do something about the fantastic costs of radio and television which has been breaking the backs of every candidate in terms of the campaign.

Mr. PASTORE. And leading to corruption.

Mr. JAVITS. Exactly. So this is the right idea and the right direction. It is an ingenious idea, indeed, and I shall support it.

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

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I yield back whatever time remains to me.

Mr. DOMINICK. Mr. President, I call up my amendment in the nature of a substitute.

Mr. HUMPHREY. Mr. President——

The PRESIDING OFFICER (Mr. HARTKE). The clerk will report the amendment.

Mr. HUMPHREY. Might I ask the Senator—will he yield to me?

Mr. DOMINICK. I yield.

Mr. HUMPHREY. Is this amendment in the nature of a subtsitute?

Mr. DOMINICK. It is.

Mr. HUMPHREY. To the amendment as modified?

Mr. DOMINICK. No; it is a total substitute.

Mr. HUMPHREY. For what?

Mr. DOMINICK. As soon as the clerk reports the amendment, I will be glad to tell the Senator.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. McCLELLAN. I would like to ascertain whether the yeas and nays were ordered on the Humphrey amendment as modified, as requested.

The PRESIDING OFFICER. Yes. The yeas and nays were ordered.

Mr. McCLELLAN. I thank the Chair.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

In lieu of the language contained in the Amendment, insert the following: "That subtitle H of the Internal Revenue Code of 1954 (relating to financing of Presidential election campaigns) is hereby repealed. Any amounts in the Presidential Election Campaign Fund established under section 9006 of such code shall be transferred to the General Fund of the Treasury on the day after the date of enactment of this Act."

Mr. DOMINICK. Mr. President, I will say right now that——

The PRESIDING OFFICER. May the Chair inquire of the Senator from Louisiana whether he yielded back his time on the Humphrey amendment?

Mr. DOMINICK. I understood that he had.

Mr. LONG. Mr. President, in view of the fact that a substitute has been offered, I think it would be appropriate to do so, and I therefore yield back my time.

The PRESIDING OFFICER. All time has now been yielded back on the Humphrey amendment, as modified.

The Senator from Colorado may proceed.

Mr. DOMINICK. This happens to be similar to a bill I put in with eight cosponsors before, and conforms to the statements I have made before on this particular subject. I have had considerable debate with the distinguished Senator from Rhode Island on it on past occasions and I think it is time now that we took it into account once again.

I would say to my distinguished friend from Louisiana that I was not going to bring this up if it had not been for the fact that the Senator from Minnesota (Mr. HUMPHREY) brought up his amendment. In view of the fact that he has worked in the same area, it seemed to me only proper that we get some kind of feeling in the Senate about this proposed—it is not proposed—it is in effect now—this law, or the so-called tax check-off, and I think we should ask for the yeas and nays on my substitute now while we have enough Senators in the Chamber.

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

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, will the Senator from Colorado yield?

Mr. DOMINICK. I want to go through some of the history on this first before I yield, and then I shall be happy to yield to the Senator from Rhode Island.

Mr. President, the original bill on the tax checkoff idea was proposed and put into law. It was proposed by the Senator from Rhode Island and he put it into law back in 1969, I believe it was—or 1968, I have forgotten which. In any event, in 1969, led by the Senator from New York, Robert Kennedy at that time, it was repealed by the Senate. Senator Kennedy pointed out and quite properly that, first of all, this was giving to the taxpayer the right to earmark what his own tax funds should be used for, without any direction whatsoever from Congress, that Members of the Senate in supporting this kind of idea would, in effect, be setting a precedent so that any person paying taxes could designate what his taxes were going to be used for. To the extent that we continue that—and I might say we put it in again—the desire of it was, as I recall, to have it in effectively for the 1968 convention—for the Presidential election, and it was finally put over, so it became effective after that, and I believe it has raised only some $4 million to date.

The fact of whether or not it has yielded any money really is not important. There are a number of basic objections to the law.

First, the distinguished Senator from Rhode Island, for whom I have considerable admiration, even though I do not always agree with him, held practically no hearings on this bill, particularly after the time the Senate repealed the law as it was in effect originally.

Second, we are establishing a precedent, as I have said, so that any taxpayer can use any of his money for the purpose he decides it ought to be used. To the extent that you reduce the revenues by this method, you are reducing the available funds for the purpose of the very necessary programs for which we need money, and are saying that we are going to use it for political purposes instead.

It strikes me that the minute you get into that, you get into total public financing, and you have not saved any money. This does not apply to primary elections.

As I heard the Senator from Minnesota say earlier today in a conversation, one of the great expense items that any person has—and he should know, because he went through this in running for the Presidency—is in the process of trying

to go through the primaries. This does not apply to any Presidential primary. So that those people who get beaten after that, at that point are going to be obligated to take care of their past due bills; or, if they win, they have to raise the money from the same people from whom you are supposedly saving them by the tax checkoff. So that what you have done, in effect, is to say that the primaries are going to be taken care of by the private interests, and then when you get to the general election, the public is asked to take care of the bill on that.

Therefore, it does not save money; it does not cut down on money; it doubles the amount of money, if it does anything, because where you have your initial expense item and your most important expense item is probably in the primaries and getting ready for the national convention.

Third, you have to make a choice, under the tax law, as to whether you are going to use public money or private money. Then you have to stay within whatever public money is available, I gather.

Let us suppose you do not. Let us suppose you have a reelection committee which goes far beyond the amount of money you have, and suppose that man is elected President. Who is going to sue him? What taxpayer is going to come in and say at that point, "You have to pay back those revenues"? Or, let us say he turns down the money and the other candidate goes on the public funds. Then I can see all kinds of demagoguery going on, with one person saying, "You're using the tax funds of the country for your own political benefit"; and I can see the other person, who is doing that, saying to the other fellow, "You're doing nothing but being supported by the fat cats."

I think that one of the most important things that is going to come out of this is exactly what Senator Robert Kennedy said: You are going to find that to the extent that you go through this way, through the coordination of the national committees and their being able to determine who is going to get this money by the influence they have, you are going to have more and more centralized control, on a party situation, as to who is going to be running for President.

There are many other things. I am not going to take too long, because I think these things raise the issue rather calmly and clearly.

What I am trying to do is to repeal the whole tax checkoff law. If we are going to go to public financing, let us have hearings on it; let us decide what we are going to do; let us decide how we are going to go; and let us not just go along in this process of saying we are going to have a tax checkoff and make the taxpayers think they are saving money, when the fact is that it is going to cost them more in the long run than it did before.

I would say that we have one other question which has not been dealt with in this law. I do not know whether it ever will be dealt with. If you raise only $1, who is going to question the constitutionality of the act on a $1 deal? You have to have a pretty wealthy person who is going to do it.

But I would say that it affects the first amendment rights of those who desire to contribute to the amount permitted by other laws. For example, if a presidential candidate decides to go by the method of public financing we are talking about, that prohibits him from accepting money from anybody else. Why? What right is there for Congress to say to any citizen that he cannot contribute to a person running for public office? Yet, that is the effect of what we are doing by the tax checkoff bill as it is now in effect and now written.

It seems to me that it also ignores the right of others who are young and the elderly who pay no taxes. If they do not pay any taxes, they cannot contribute. What in the world do we do about that? That is a constitutional issue, if I ever heard one. You hope to go forward on public money, and that is the route you take; you cut out totally any contributions from the young or the elderly who pay no taxes because they have not made any checkoffs. What do you do about those who pay taxes but do not give a checkoff, such as myself? When we paid our income tax last year, I did not sign any checkoff. I do not like that bill.

I do not think the act is good. I do not think it is constitutional. I do not think we ought to be going this way. I think it is a tragic mistake for our country to take this route down that road, where you are going to say to people that they can earmark what their taxes are going to be used for. I would much prefer to earmark my tax money for the benefit of the blind, for the benefit of those who draw social security benefits, for the benefit of those who need more housing, for the benefit of the poor, rather than I would for someone who is running for the Presidency of the United States. I want to give my own personal funds on that.

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

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

Mr. LONG. Mr. President, who has time in opposition to the amendment?

The PRESIDING OFFICER (Mr. HARTKE). The Senator from Louisiana is in control of time in opposition of this amendment.

Mr. LONG. Mr. President, I should like to expound on one or two points, and then I will yield to the Senator from Rhode Island.

This proposal does not provide an appropriation. It merely permits a taxpayer to indicate a wish. It would have to be followed with an appropriation whereby the funds would be appropriated if we intended to respect the wish of that taxpayer. So the constitutional aspect of this matter, I think, has been resolved a long time ago.

One can say, as the Senator has suggested, that the bill leaves something to be desired. The same is true of any bill. I think it is a good bill, as far as it goes.

To reject this amendment would indicate that we in the Senate have not been impressed one whit by the Watergate scandal. This approach would say, at least so far as the general election of the President is concerned, that both candidates would have the opportunity, hopefully, to be financed by the wish of the taxpayers and by an appropriation of Congress, whereby each would have the same amount of money, the two major parties—with a proportionate amount for a third party, depending upon the number of votes it gets—and every penny would be accounted for. It is not likely that we are going to be hiring burglars or paying people not to tell what they know when called before a grand jury, or paying hush money to individuals involved in crimes, if the money must be accounted for publicly.

In my judgment, Mr. President, time has proved the merit of the approach that we ought to take the Presidency beyond the reach of these private contributions. Admittedly, this does not do it all; but when we Democrats, in conference, discussed this issue, the only thing we argued about was whether it did enough. Far from taking the view the Senator from Colorado has argued, the Senator from Rhode Island knows that there was tremendous persuasion in the Democratic caucus that we ought to go far beyond this. When we discussed this in conference every Democrat thought it should be done. It is very minimal.

I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, the name of Robert Kennedy has been used this afternoon on the floor. I want to say that in my opinion he was a very illustrious Attorney General. He was a dear friend of mine. He was a very eminent Member of this body. I daresay, too, that whatever Robert Kennedy said, when he did say it, was before Watergate; and I daresay that if he had known about Watergate, he would not have said what he said, if he said it at all.

Now, the question has been raised here that we are using public money to finance the Presidency of the United States. The argument made is that we do not do it for the blind and we do not do it for the disabled. I never heard of any corruption among the blind or the disabled.

What we are trying to do is stop corruption, and money leads to corruption. I daresay that if Maurice Stans had not made it his business to raise $50 million by the deadline of April 7, our President today would not be embarrassed, whether or not he is implicated. I pray to God, for the sake of this country, that he was not implicated.

What are we trying to do? We are trying to get the Presidency out of greed, and that is what this amounts to. We passed this law and it was concurred in by the House. Why? Because we felt the time had come when the Presidency of the United States, the prestige of that office, should be lifted out of the cocktail bar, the $1,000 dinner, the $500 dinner, or the $100 dinner. The President should be beholden to no one. No one should have access to the oval room at

the White House only because he made a large contribution, and no one should be appointed as an ambassador because he made many contributions. That is all we are talking about today.

What are we saying to the taxpayers? We are saying, "You do not have to do it but if you feel, in order to leave the Presidency unfettered, unbeholden, and a free agent, all you need to do is designate one of your dollars to this fund to elect the President of the United States."

Can anything be worthier than that? Can anything be worthier than to elect a President of the United States who owes nothing to anyone? That is the point here.

Must you do this of necessity? No, you do not have to elect this method if you do not want to. You can go on raising your own money but once you elect to accept this money that is the limit. We should pass an overall ceiling, as has been suggested by the Committee on Commerce or the Committee on Rules and Administration, and there should be some limit on how much you can spend to be elected to an elective body, such as Congress, or the Presidency.

I am telling you, Mr. President, excess money leads to corruption. Today is the second day we have heard a member of the White House implicate a number of people in the White House, right or wrong. I do not know the facts that clearly but I have been listening and watching the television. We heard today time and time again of personalities elected or chosen by the President who have betrayed the President of the United States, and a serious question has arisen as to whether or not the President of the United States knew about it.

All of this could have been obviated. Nixon did not need this money. Nixon did not need this greed on the part of Maurice Stans or John Mitchell. He did not need that at all. I dare say that no Democrat could have beaten him in 1972.

There we are. It was greed, again, that led to the scandal; and today American society is glued to the television sets, listening to the sordid story of a man in the White House who became President, after a campaign, only because money was available. I say this is wrong. It should be eliminated from the electoral scene. I am not predicating it for Senators and Representatives; but for the President, at least, let us keep that office clean. That is all we are trying to do.

When the proper time comes, I shall move to lay the amendment in the nature of a substitute on the table.

Mr. HUMPHREY. Mr. President, I am really sorry that this amendment in the nature of a substitute is before us. There are three men in this body who had the honor to be candidates for President. I am speaking for myself. We should eliminate the most demeaning, the most degrading, the most disgusting part of public office: seeking contributions.

Let us face it. All we are trying to do here is to cleanse the political process. The Senator from Rhode Island, in his eloquent manner, has stated the case as precisely and as movingly as it can be said. Without any regard for the current occupant of the office, let us face it all the way through.

The cost of campaigning has gone up. We can campaign for the highest office in America, and it will cost money. People today believe that taking money carries with it influence and tends to corruption.

We would like to cleanse the stables of the stench that seems to be all through the land. It does not make any difference whether it is a Republican or a Democrat; we are all under suspicion. I think we have got to turn back this amendment in the nature of a substitute because the public expects this body not only to pass a new election law, but also to do something about campaign financing.

What I have said today is just one simple thing to make it possible for people to know that when they pay their income tax, they can set aside $1 as responsible citizens to protect the occupant of the highest office in the gift of the American people.

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

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

I have listened with care to my friend from Minnesota and my friend from Rhode Island. What they are both saying is that they would like everybody to avoid what is improper, but let us not do what the rest of them do.

We are talking about the use of contributions for political purposes. For heaven's sake, what for? Let us grow up. Let us not get into an emotional state because of Watergate. Surely, we all dislike it. But not a single person that is talked in Watergate ever ran for sheriff; has ever done anything in the elective field. So I am not going to be a part of more trouble, and all the rest of it, simply because I bring up an amendment to get rid of what I think is an unconstitutional use of power by Congress.

We have the right to raise taxes and appropriate funds for the general welfare. But whether the general welfare includes general elections for President, on one side or the other, is anybody's guess.

No such cases have been tried in court, as far as I know, and probably will not be. But all we have to do is realize, as the Senator from Louisiana himself said, that it costs $1.40 to raise a dollar, to see that what we are doing is not only giving the taxpayer the ability to say that he is going to earmark his funds for political purposes instead of giving them to the blind or giving them to whatever other program it may be, but it is also costing money to raise the amount of money covered.

The Senator from Louisiana says this is subject to the appropriation process; therefore, we do not have to worry about it because we do not have to do what the taxpayer tells us. Yet we are going out to the taxpayer and saying to him, "Put a dollar in and we will put it into a campaign." The Senator from Louisiana says we do not have to do it. I do not know whether we have to do it or not, but if we do not, we are breaking faith with the taxpayer who has put the money in, and if we do it, we are setting the precedent for earmarking any kind of tax situation we can talk about.

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

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

Mr. DOMINICK. I will if I can get 2 minutes.

Mr. PASTORE. We have no time; the Senator does.

Mr. DOMINICK. I yield to the Senator from Kansas.

Mr. DOLE. I think I understand—in fact, I know—it does not cover the cost of the primary campaign. Is that correct?

Mr. DOMINICK. Yes.

Mr. DOLE. In other words, all this we avoid if we are the nominees of the party. Of course, we are subject to getting the nomination.

Mr. DOMINICK. That is correct.

Mr. DOLE. So one can sell his soul in the campaign if he knows he is going to get the nomination and recoup any losses through public money.

Mr. DOMINICK. It seems to me perfectly possible if he could run his campaign for less than the amount of money allocated.

Mr. DOLE. I agree with the Senator from Minnesota that there is nothing more demanding than getting money, because it is not what one knows happens, but what people may think. I agree with the Senator from Rhode Island. As chairman of the National Republican Committee, I think I can say it was never really money that corrupted some of the people around the President; it was power that corrupted those men. As far as I know, none ran off with money.

I think we are going to have to come around to financing campaigns, including perhaps those of Senators and Members of Congress, but I am concerned, and I agree with the Senator from Colorado, that until we can cover the cost of primary campaigns, it seems rather foolish, in a way, to worry about the general campaign.

Mr. DOMINICK. I thank the Senator. I know how hard he worked. Having been chairman of our senatorial campaign committee, I know how hard it is to get money. I know it is not easy. I must say I have not known anybody to come back on me, except someone who contributed perhaps $10, who would then say, "I contributed $10. What can you do for me?"

Mr. President, I yield back my time.

Mr. LONG. Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. All time has expired or has been yielded back.

The question now is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK) in the nature of a substitute for the amendment of the Senator from Minnesota (Mr. HUMPHREY), as modified. 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 Michigan (Mr. HART), the Senator from Wyoming (Mr. MCGEE), are necessarily absent.

I further announce that the Senator

from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), are 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 Iowa (Mr. CLARK) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS), would vote "yea."

The result was announced—yeas 30, nays 62, as follows:

[No. 246 Leg.]

YEAS—30

Aiken	Dole	Hruska
Allen	Domenici	McClure
Baker	Dominick	Packwood
Bartlett	Ervin	Scott, Va.
Beall	Fannin	Stafford
Bellmon	Fong	Taft
Bennett	Griffin	Thurmond
Buckley	Gurney	Tower
Byrd, Harry F., Jr.	Hansen	Weicker
Cotton	Hatfield	
	Helms	

NAYS—62

Abourezk	Hollings	Nelson
Bayh	Huddleston	Nunn
Bentsen	Hughes	Pastore
Bible	Humphrey	Pearson
Brock	Inouye	Pell
Brooke	Jackson	Percy
Burdick	Javits	Proxmire
Byrd, Robert C.	Johnston	Randolph
Cannon	Kennedy	Ribicoff
Case	Long	Roth
Chiles	Magnuson	Schweiker
Church	Mansfield	Scott, Pa.
Cook	Mathias	Sparkman
Cranston	McClellan	Stevens
Eagleton	McGovern	Stevenson
Eastland	McIntyre	Symington
Fulbright	Metcalf	Talmadge
Gravel	Mondale	Tunney
Hartke	Montoya	Williams
Haskell	Moss	Young
Hathaway	Muskie	

NOT VOTING—8

Biden	Goldwater	Saxbe
Clark	Hart	Stennis
Curtis	McGee	

So Mr. DOMINICK's amendment in the nature of a substitute for the Humphrey amendment, as modified, was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HARTKE). The question now occurs on the amendment of the Senator from Minnesota as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. GRIFFIN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. GRIFFIN. Mr. President, I wonder if the Senator from Minnesota wants the yeas and nays.

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota as modified. 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 Michigan (Mr. HART), the Senator from Wyoming (Mr. MCGEE), are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), are 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 Iowa (Mr. CLARK), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 61, nays 31, as follows:

[No. 247 Leg.]

YEAS—61

Abourezk	Haskell	Muskie
Bayh	Hathaway	Nelson
Beall	Hollings	Pastore
Bellmon	Huddleston	Pearson
Bentsen	Hughes	Pell
Bible	Humphrey	Percy
Brock	Inouye	Proxmire
Brooke	Jackson	Randolph
Burdick	Javits	Ribicoff
Byrd, Robert C.	Johnston	Roth
Cannon	Kennedy	Schweiker
Case	Long	Sparkman
Chiles	Magnuson	Stevens
Church	Mansfield	Stevenson
Cook	Mathias	Symington
Cranston	McGovern	Taft
Eagleton	McIntyre	Tunney
Eastland	Metcalf	Williams
Fulbright	Mondale	Young
Gravel	Montoya	
Hartke	Moss	

NAYS—31

Aiken	Dominick	McClure
Allen	Ervin	Nunn
Baker	Fannin	Packwood
Bartlett	Fong	Scott, Pa.
Bennett	Griffin	Scott, Va.
Buckley	Gurney	Stafford
Byrd, Harry F., Jr.	Hansen	Talmadge
Cotton	Hatfield	Thurmond
Dole	Helms	Tower
Domenici	Hruska	Weicker
	McClellan	

NOT VOTING—8

Biden	Goldwater	Saxbe
Clark	Hart	Stennis
Curtis	McGee	

So Mr. HUMPHREY's amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that Mr. David Affeldt, the counsel of the Special Committee on Aging, be permitted to be present in the Chamber during the consideration of the amendments I shall offer at this time.

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

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

Mr. CHURCH. I yield.

Mr. LONG. I ask unanimous consent that Bill Morris, of the staff of the Finance Committee, be permitted to be present on the floor during the consideration of this amendment.

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

AMENDMENT NO. 284

Mr. CHURCH. Mr. President, I call up my amendment No. 284, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

H.R. 8410 is amended by adding at the end of title II thereof the following:

SEC. . It is the sense of Congress that—

(a) the President prepare and submit, not later than September 1, 1973, a proposal to provide for the coverage, under the supplementary medical insurance program established by part B of title XVIII of the Social Security Act, of essential out-of-hospital prescription drugs, and such other proposals as he deems appropriate for the extension of the benefits provided under parts A and B of such title,

(b) the recommendations of the President to increase out-of-pocket payments for the aged and disabled under the health programs established by such title XVIII should be withdrawn.

Mr. CHURCH. Mr. President, this amendment, which is cosponsored by the distinguished Senator from Minnesota (Mr. MONDALE), can be very briefly stated. It is a sense of the Congress resolution, and it contains two major provisions.

It expresses the sense of Congress, first, that the administration should submit proposals by September 1, 1973, to strengthen the medicare program and, second, that the administration should withdraw its earlier recommendations which would not only greatly reduce the benefits of medicare, but which would, in fact, actually increase out-of-pocket costs for the aged and the disabled under medicare by approximately $1 billion a year.

Mr. President, Senator MONDALE and I are joined in the sponsorship of this sense-of-Congress resolution by the following Senators: Mr. MCGEE, Mr. WILLIAMS, Mr. HUDDLESTON, Mr. HOLLINGS, Mr. MCGOVERN, Mr. RIBICOFF, Mr. HART, Mr. MOSS, Mr. PASTORE, Mr. HUGHES, Mr. MAGNUSON, Mr. BROOKE, Mr. BIBLE, Mr. MUSKIE, Mr. TUNNEY, Mr. CLARK, Mr. ABOUREZK, Mr. STEVENSON, Mr. HUMPHREY, and Mr. CRANSTON.

Mr. President, in the interest of time, while I have a prepared statement that I can deliver, I am hopeful that the distinguished chairman might find it possible to accept the amendment.

Mr. LONG. Mr. President, if the Senator will not make the speech, I will accept the amendment.

Mr. CHURCH. Very well, that is the best deal I have made all day. I ask unanimous consent that my statement be printed at this point in the RECORD.

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

STATEMENT BY SENATOR CHURCH

Briefly stated, this amendment—which the Senator from Minnesota (Mr. MONDALE) and I have sponsored—has two major provisions. It expresses the sense of Congress that the Administration:

1. Submit proposals by September 1, 1973 to strengthen Medicare; and

2. Withdraw its earlier recommendations to increase out-of-pocket payments for the aged and disabled under Medicare.

In the Administration's fiscal 1974 budget, massive cutbacks in Medicare coverage were proposed. One such example was to require Medicare patients to pay hospital room and board charges for the first full day, plus 10 percent of all subsequent charges. Now they pay a $72 deductible for hospitalization and nothing thereafter until the 61st day. If the Administration's proposal should become law, out-of-pocket payments for hospitalization for Medicare beneficiaries would be increased by an estimated $345 million for the first six months of 1974. On an annualized basis, hospital charges for the elderly and disabled would be boosted in the vicinity of $700 million. For the 5.4 million Medicare patients who are expected to be hospitalized during fiscal 1974, this added expense could be devastating.

Major cutbacks are also proposed by the Administration for the Part B Supplementary Medical Insurance program. Under the Administration's recommendations, the Part B deductible would be raised from $60 to $85 and the coinsurance charge from 20 to 25 percent. The fiscal 1974 budget also suggests that a new dynamic concept would be built into the Part B deductible. In other words, whenever Social Security benefits would be increased, the Part B deductible would be boosted proportionately. Present law requires an act of Congress to raise the deductible, instead of an automatic adjustment mechanism pegged to Social Security increases.

All in all, the Administration's proposals would saddle the elderly and disabled with added out-of-pocket payments amounting to $516 million for the first six months in 1974. But for a full year, these proposals would cost Medicare patients more than $1 billion.

Practically everyone in the United States wants economy in government. For my own part, I have supported a number of proposals to trim the Administration's overall budgetary ceiling of $268.7 billion.

However, certainly a much better target could have been selected for massive reduction than the Medicare program—a program which in 1974 will provide valuable protection for 23 million aged and disabled Americans. To my way of thinking, the brunt of budgetary cutbacks should not be placed upon the backs of the elderly and the disabled.

They are not responsible for the intensifying inflationary pressures brought about by the colossal failure of phase three.

They are not responsible for the record breaking budget deficits of this Administration—fueled to a large degree by an undeclared war in Southeast Asia, mind boggling cost overruns for military hardware and a mismanaged economy with overly optimistic prophecies.

And it is totally unfair to make them the scapegoats for these policy failures.

On this point, Americans of all ages are in overwhelming agreement. A recent Harris poll made this abundantly clear. Of those interviewed, 92 percent opposed the Administration's efforts to cut back Medicare coverage for the disabled and aged, while only 5 percent supported these policies.

Mr. President, true economic security in retirement can never be fully achieved until we resolve the mounting health care cost problems which impose an intolerable drain upon those living on limited, fixed incomes.

Last month the Senate Committee on Aging—of which I am Chairman—issued an annual report on recent developments in the field of aging.

Perhaps the most significant finding is that the elderly, on a per capita basis, now pay more in out-of-pocket payments for medical care than the year before Medicare became law. In fiscal 1966 they paid $234 from their own resources. By fiscal 1972 that figure had soared to $276, or 18 percent higher than in 1966.

This amount, I should add, does not include the Part B premium charge, which will amount to $75.60 a year for a single aged person, beginning this July.

Valuable as it is, Medicare still only covers about 42 percent of health care costs of the elderly. This figure, however, represents a decline when compared with fiscal 1969. At that time Medicare covered almost 46 percent of the aged's medical expenditures. However, inflationary pressures and gaps in coverage have steadily eroded this coverage.

For these reasons, our amendment also includes a provision which calls upon the Administration to submit its recommendations to cover essential out-of-pocket prescription drugs under Medicare and other proposals to strengthen this vital program.

Mr. CHURCH. I thank the Senator from Louisiana very much.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. MUSKIE. Mr. President, I strongly support the adoption of the Church-Mondale amendment to H.R. 8410.

Average health care expenditures for older Americans now amount to $981 a year, nearly seven times that for persons under 19 and about three times the expenses for individuals in the 19- to 64-year age category.

Today the high cost of health care represents the greatest single threat to the economic well-being of the elderly. Unfortunately illness strikes with far greater frequency and severity at a time in life when those victimized are least able to afford it.

This point was brought home very forcefully during hearings which I conducted—as chairman of the Committee on Aging's Subcommittee on Health Care of the Elderly—on "Barriers to Health Care for Older Americans."

At these hearings. we had an opportunity to hear firsthand from HEW Secretary Caspar Weinberger concerning the administration's rationale for cutting back medicare coverage for the aged and disabled. His line of reasoning was, however, challenged vigorously by every other witness who testified during our initial 2-day inquiry.

A major argument advanced by the Secretary was that cutbacks in medicare coverage were necessary to encourage greater cost consciousness by elderly health consumers. But older Americans living on less than $125 a month certainly do not need this type of "encouragement." They are already struggling to make ends meet, and additional health costs could leave them financially bankrupt. Moreover, it is physicians—not elderly patients—who determine the mode and timing of medical services.

Secretary Weinberger also maintained that increased deductibles and coinsurance charges were necessary to guard against overutilization of health services. However, there is no convincing evidence whatsoever to suggest that the elderly overutilize medical and hospital services. Quite to the contrary, the average hospital stay for aged Americans has declined from 14.1 days in 1967 to 12 days in 1972, for a 15-percent reduction. Older Americans do not derive great pleasure in going to the hospital. Those who are hospitalized are there—almost without exception—because it is necessary, not because they like it.

Secretary Weinberger further argued that recent social security increases would make it easier for the elderly to assume greater "cost sharing" under medicare. Unfortunately he overlooked some very crucial facts. Despite recent improvements in social security, more than 3 million older Americans still live in poverty. And the poverty threshold, I should hasten to add, is pegged at a bare minimum standard: $2,060 for a single aged person and $2,600 for an elderly couple.

Additionally, nearly 11 million older Americans—a clear majority of all persons 65 and older—have incomes below the Department of Labor's intermediate budgets for elderly persons.

Moreover, the Congress never intended to provide the aged with a much-needed social security increase, and then dilute its impact by approving staggering increases in health care costs for the elderly.

Finally, the Secretary maintained that the administration's proposals would encourage the use of alternatives to more expensive forms of institutionalization. But the harsh reality is that these alternatives frequently do not exist. A classic example is home health care which accounts for only about 0.7 percent of all projected medicare payments under part A for fiscal 1973. Furthermore, the estimated payments for fiscal 1973 are expected to be about $3 million below the fiscal 1970 level.

However, an expression of congressional opposition to the administration's proposed cutbacks in coverage is not enough. Efforts must also be initiated, I strongly believe, to improve Medicare by closing gaps in coverage.

Consequently, I am especially pleased that the Church-Mondale amendment calls upon the administration to submit concrete recommendations at an early date—by September 1—for strengthening medicare coverage. Specifically, the administration would be directed to make recommendations for covering essential out-of-hospital prescription drugs.

Prescriptions now constitute the largest personal health care expenditure which the aged must meet almost entirely from their own resources. In fact, drug costs for persons 65 and above are about three times as great as for younger Americans. And for elderly persons with severe chronic conditions—about 15 percent of all older Americans—their pre-

scription expenses are approximately six times as great as for younger individuals.

Today, the threat of costly illness is all too apparent for millions of aged and disabled Americans. That threat—intensified by the continuing upward spiral of health care costs—must be effectively dealt with as soon as possible.

The Church-Mondale amendment which I support, would help meet that threat.

Mr. CHURCH. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HARTKE). All remaining time having been yielded back, the question is on agreeing to the amendment (No. 284) of the Senator from Idaho (Mr. CHURCH).

The amendment was agreed to.

AMENDMENT NO. 283

Mr. CHURCH. Mr. President, I call up for consideration in my own behalf and on behalf of Senators MONDALE, KENNEDY, and MCGOVERN amendment No. 283.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

H.R. 8410 is amended by adding at the end thereof the following:

Section 1130(a)(2) of the Social Security Act is amended—

(1) by striking out "of the amounts paid (under all of such sections)" and inserting in lieu thereof "of the amounts paid under such section 403(a)(3)"; and

(2) by striking out "under State plans approved under titles, I, X, XIV, XVI, or part A of title IV" and inserting in lieu thereof "under the State plan approved under part A of title IV".

Mr. CHURCH. Mr. President, this amendment has the purpose of exempting the aged, the blind, and the disabled from the requirements of the Revenue Sharing Act, that 90 percent of social service funds be directed to the current welfare recipients.

The primary purpose of social services for the elderly and handicapped is to prevent dependency and institutionalization. For many potential welfare recipients, social services under the Social Security Act have enabled them to live independently, rather than being prematurely and unnecessarily institutionalized at a much higher public cost.

However, last year's Revenue Sharing Act reversed a long established congressional policy of making services available not only to persons on welfare, but to those in danger of becoming dependent. Instead, the act established new eligibility requirements that at least 90 percent of a State's allotment had to be spent on current welfare recipients.

Six categories were exempted from the 90–10 ratio, but services to the aged, blind and disabled were not included. Moreover, nowhere near 90 percent of funding for social services for elderly and handicapped persons had been directed toward welfare recipients. In fact, a substantial portion had been targeted to nonwelfare recipients to prevent them from slipping into a dependency status.

One of the most immediate effects of this 90–10 limitation has been a widespread reduction in services for the low-income elderly, blind, and disabled who are not on welfare. On this point, the National Council on Aging stated that this provision "will virtually eliminate programs designed to prevent dependency and institutionalization of our older people—resulting eventually in a higher cost to the taxpayers."

My amendment, however, can help to correct this situation by allowing communities to provide increased services to the low-income aged and handicapped, enabling them to maintain their independence at a minimum public cost.

This provision, I am pleased to say, has the wholehearted support of leading organizations in the field of aging, including the National Council of Senior Citizens, National Retired Teachers Association-American Association of Retired Persons, and the National Council on the Aging.

A similar measure has been introduced in the House by Representative JOHN HEINZ. That proposal has been cosponsored by more than 150 Members, including Representative WILBUR MILLS, the chairman of the House Ways and Means Committee, which means that if we can add this provision to the bill, the likelihood is that we will not be engaged in an idle exercise, but will have every prospect of seeing it written into law in the conference between the two Houses.

So, Mr. President, for these reasons, I urge adoption of the amendment.

I think that this 90–10 ratio has already produced just the opposite result of what was intended when it was first adopted. It is actually driving people onto the welfare rolls, forcing them to be institutionalized in order to secure the services, many of which, like housekeeping services and transportation services, are meant for the very purpose of giving people on low incomes an assist and thus enable them to stay off the welfare rolls.

The adoption of this amendment would give the States and communities more flexibility in the use of these funds. It would not add 1 dime to the total funds available. The present $2.5 billion ceiling in existing law would be left intact, but the amendment would give the States and communities greater flexibility to put these funds to work in a better manner.

For those reasons, I hope that the Senate will adopt the amendment.

I reserve the remainder of my time.

Mr. LONG. Mr. President, this amendment has merit. But the Finance Committee is now right in the middle of its work on social services. We held 4 days of hearings on social services in which we went into all aspects of the program. As we began to consider legislation, we were faced with an immediate deadline: the very restrictive regulations of the Department of Health, Education, and Welfare are scheduled to go into effect July 1. So the committee decided that for immediate purposes we should approve a 6-month postponement in the HEW regulations, and the Senate has overwhelmingly approved the committee provision. When we come back from the recess, the committee will be giving priority to its work on social services, and I believe that what we approve will satisfy the Senator from Idaho and probably do a lot more besides. I would hope the Senator would withhold his amendment until he sees the bill the Finance Committee will soon report out.

Mr. President, this would more appropriately be an amendment on a bill that the House has sent us on which they anticipate we will add welfare amendments. They have informed the committee that they will hold hearings themselves before they meet with us in conference. With all deference to the Senator from Idaho, he is speaking of an area where legislation is indicated and which cannot be achieved here on this bill. It will have to be an amendment to a welfare bill which we would bring before the Senate as soon as we could. But that will have to be after the recess.

I would hope the Senator from Idaho would withhold his amendment. If he insists on pressing his amendment, I would be compelled to oppose it, because we think we can come up with what the Senator has in mind and can do an even better job of it.

Mr. CHURCH. Mr. President, I yield myself such time as I may need.

Let me first say to the distinguished chairman that I have great respect for him and the other members of his committee. I know they are undertaking to look into the effect of this 90/10 ratio across the board. I am certain that the committee will come up with recommendations that I could wholeheartedly support.

Furthermore, I want to commend the chairman on the fact that he is undertaking to postpone implementation of the social services regulations for 6 months.

But the fact remains that the 90/10 ratio will not be postponed. It is in effect today. It is part of the law today. It has been operating, for months now, in the various States.

If one thing is clear, it is that this ratio straitjackets the States and communities in such a way that it is clearly a proven mistake. The Senator himself indicates as much when he says the committee will review the whole question and come forward with recommendations.

I am asking for only one thing, which I am sure the committee will recommend in due course, but which I am equally sure we should do tonight, and that is simply to exempt from the 90–10 ratio the aged, the blind, and the disabled. We know that this will be done sooner or later. We do not have to wait. Chairman MILLS on the House side indicates that he favors this change in the law, since it is causing such difficulties throughout the 50 States.

Since this particular change has had the endorsement of all the organizations that represent the aged, the blind, and the disabled, I should think that the chairman might accept this limited revision, which would interfere in no way with the more comprehensive examina-

tion of the whole question that the committee will make at a later date.

That is the basis of my plea tonight. It is fully justified, and I would hope that the Senator from Louisiana would accept my amendment.

Mr. LONG. I regret that I cannot support the amendment for the reasons I have already set down. I think that we can bring before the Senate an improvement over what the Senator is proposing here. We will be able to look at all the facets of the problem. While I appreciate the Senator's good intentions, I am willing to abide by the judgment of the Senate on this matter.

The PRESIDING OFFICER (Mr. HUGHES). The question is on agreeing to the amendment of the Senator from Idaho (Mr. CHURCH), No. 283.

The "Noes" appear to have it——

Mr. CHURCH. Mr. President, I ask for a division.

The PRESIDING OFFICER. A division is called for.

On a division, the amendment of the Senator from Idaho was agreed to.

AMENDMENT NO. 288

Mr. STEVENSON. Mr. President, I call up my amendment No. 288.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

At the end of the bill, add the following new section:

SUSPENSION OF DISC BENEFITS

SEC. . Section 993(c)(3) of the Internal Revenue Code is amended by striking out the first sentence and inserting the following in lieu thereof:

"If the President imposes export controls under the authority conferred upon him by section 3(2)(A) of the Export Administration Act on any property described in paragraph (1), he shall by Executive order designate the property as in short supply, and that designation shall remain in effect throughout the period during which such export controls are in effect. If the President determines that the export of any property described in paragraph (1) exerts serious upward pressure on the domestic price of that property, he may by Executive order designate the property as in short supply.".

Mr. STEVENSON. Mr. President, at 5 o'clock today, the administration announced that it was proposing controls on the export of soybeans, processed soybeans, cottonseed, and cottonseed products. At that point, the administration placed itself in an anomalous position. It is on the one hand controlling the export of certain commodities, and on the other hand it is encouraging the export of the same commodities at taxpayers' expense.

The Revenue Act of 1971 established a system whereby all exporters of U.S. products can obtain tax advantages by establishing subsidiaries called DISC's. The purpose of a DISC system is to encourage exports. Under present law, the President is permitted but not required to suspend these DISC benefits to encourage the export of commodities if the supply is insufficient to meet the requirements of the domestic economy. The authority of the President has not been exercised.

On June 25, Director Dunlop of the Cost of Living Council testified before the Senate Banking Committee that earlier this year the Council had asked the Treasury to consider the possibility of suspending DISC benefits for a number of commodities which have experienced serious domestic price increases, including soybeans, animal feeds, and steel scrap, but that Treasury is still studying the matter. Despite the fact that the President on June 13 requested from Congress "on an urgent basis" new authority to impose export controls on "animal feedstuffs and other grains," he has not exercised his authority to suspend the tax break enjoyed by companies who export those commodities through DISC's.

Mr. President, I see no reason why the Government should operate at cross purposes with itself, encouraging exports of a commodity through tax breaks on the one hand, and on the other trying to combat inflation by curtailing the exports of the same commodities.

This amendment would require the President to suspend the DISC benefits for any commodity whenever the export of that commodity was restricted pursuant to the provisions of the Export Administration Act.

The amendment would also permit the President to suspend DISC benefits whenever he found that the export of a commodity would exert serious upward pressure on the domestic price of that commodity.

Mr. President, the short of it is that this amendment would eliminate that anomalous position—the administration on the one hand controlling imports and on the other encouraging, at taxpayer expense, the export of the very same commodities.

I urge the adoption of the amendment by the Senate.

Mr. LONG. Mr. President, what the Senator is recommending is something the President may do, anyway. The President has the power to do it.

This would be a tax increase, if it is voted. While it does have merit to recommend it, I have been hopeful—and am still hopeful—that we can keep tax increases off the bill. I am going to vote against the amendment.

Incidentally, it is planned that the foreign tax provisions will be on the trade bill, so that the appropriate bill for this amendment will be here in short order, and we will have a chance to act on it sometime shortly after the August recess. I hope we postpone consideration until that time, and let us act on it in connection with the proper bill, if the President indeed has not taken care of the problem before then.

I am willing to abide by the wishes of the Senate in this matter. If there is no request for additional time, I yield back the remainder of my time.

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

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, this is not a tax increase amendment. It is a tax decrease amendment. As a matter of fact, taxes are being raised to encourage the export of certain commodities, including soybeans and cottonseed. Taxes are raised to encourage exports at the same time the President is using the authority he now has to control the exports of the same commodities. That makes absolutely no sense.

Hearings have been held on this subject. They have been held by the Committee on Banking, Housing and Urban Affairs. No witnesses before that committee could defend this indefensible policy. This amendment would eliminate it. I see absolutely no reason for delaying it.

Mr. President, if the chairman yields back his time, 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 Illinois. 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 Michigan (Mr. HART) and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN), and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The result was announced—yeas 34, nays 59, as follows:

[No. 248 Leg.]

YEAS—34

Abourezk	Huddleston	Nelson
Aiken	Hughes	Packwood
Bayh	Humphrey	Proxmire
Case	Jackson	Ribicoff
Chiles	Kennedy	Schweiker
Church	Mansfield	Stafford
Cranston	McGovern	Stevenson
Eagleton	McIntyre	Symington
Fulbright	Metcalf	Tunney
Hartke	Mondale	Williams
Hatfield	Moss	
Hathaway	Muskie	

NAYS—59

Allen	Domenici	McClellan
Baker	Dominick	McClure
Bartlett	Eastland	Montoya
Beall	Ervin	Nunn
Bellmon	Fannin	Pastore
Bennett	Fong	Pearson
Bentsen	Gravel	Pell
Bible	Griffin	Percy
Brock	Gurney	Randolph
Brooke	Hansen	Roth
Buckley	Haskell	Scott, Pa.
Burdick	Helms	Scott, Va.
Byrd, Harry F., Jr.	Hollings	Sparkman
	Hruska	Stevens
Byrd, Robert C.	Inouye	Taft
Cannon	Javits	Talmadge
Cook	Johnston	Thurmond
Cotton	Long	Tower
Curtis	Magnuson	Weicker
Dole	Mathias	Young

NOT VOTING—7

Biden	Hart	Stennis
Clark	McGee	
Goldwater	Saxbe	

So, Mr. STEVENSON's amendment (No. 288) was rejected.

Mr. CRANSTON. Mr. President, I call up an unprinted amendment, as sent to the desk and modified.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment, as follows:

H.R. 8410 is amended by adding at the end of the bill, the following new subsection:

SEC. 210(c). Section 401 of the Social Security Amendments of 1972 is amended by striking out "January 1972" wherever it appears and inserting in lieu thereof "January 1973."

Mr. CRANSTON. First, Mr. President, let me say I am delighted that the Senator from California (Mr. TUNNEY) has joined me as a cosponsor of the amendment.

By way of brief explanation, section 401 of Public Law 92-603—which most of us recall as H.R. 1—relates to the limitation of fiscal liability of the States for State supplementation—upon implementation of the supplemental security income program—SSI—in January of 1974. Section 401 is the so-called hold-harmless provision.

This provision was included in the Social Security amendments to encourage State supplementation of the Federal floor established by the SSI program, to the presently existing benefit levels—so that no aged, blind or disabled assistance recipient would suffer reduced benefits as the result of the new Federal program. This would be accomplished by holding the States "harmless" for costs over the January 1972, levels.

Unfortunately, this provision, in an estimated 15 States, will have a very counterproductive effect on the recipients of aid to the aged, blind and disabled—because the benefit increases by the States during calendar year 1972 will not be "held harmless" under the existing provision.

For example, in my home State of California benefit levels increased $17 from January 1972, to January 1973. This $17 increase consisted of a $12 benefit increase—an attempt to pass along some of the benefits of the 20-percent social security increase to public assistance recipients, and a $5 cost-of-living increase.

If the "hold harmless" date of January 1972 is retained, this $17 increase will not be included in the limitation on State liability under the SSI program, contained in section 401 of the Social Security amendments.

The result will likely be a reduction in benefits to the over 500,000 California aged, blind, and disabled assistance recipients equal to the 1972 increase, and the same is likely to occur in a number of other States.

The committee chairman feels that the States will act to prevent a reduction in payment that may occur in some States. It probably will not in some. Such an effort is underway in California, but I am not sure it will succeed. Therefore, I am proposing this amendment to protect the people in those States where such action would take place.

This amendment will change the hold harmless date to January 1973—thereby covering the calendar 1972 increases which States have enacted. These increases enacted during calendar 1972 are not abusive actions designed to inequitably increase State assistance in the implementation of the SSI program—rather they are increases enacted in many States in an attempt to mitigate the effects of spiraling inflation on elderly, blind, and disabled public assistance recipients.

Mr. President, this amendment is essential to insure that no aged, blind or, disabled person suffers a benefit reduction as the result of H.R. 1 and the implementation of the SSI program.

I would hope that the distinguished chairman of the Finance Committee could take this amendment to conference with the House. I believe it is a measure designed to make more equitable the effects of the SSI program—particularly with regard to those States which have attempted to be most responsive to the needs of some of the least fortunate among us.

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

Mr. CRANSTON. I am delighted to yield.

Mr. PASTORE. Mr. President, this amendment has considerable merit. As to the timing and as to the place, that is something that can be debated. The fact still remains that when we raised the social security limitation, many of the States, in order to implement it and bring it up to the standards for those who had been receiving aid, the blind, and those enumerated by my colleague from California, had to go along and supplement the payments they were making in these categories.

As a result of that law, we find that in some States the tab will be $2.6 million. New York's will be considerably larger. California's will have a considerably larger amount. I recognize that the tab on this will run up to $400 million. Whether or not that should be undertaken on this bill, I am not prepared to say. But the amendment has considerable merit, and I sincerely hope that the amendment would be taken to conference, so that the matter could be kept alive. If it is felt that further hearings should be held, that could be done through due process.

But we have to remind ourselves that this was a humanitarian effort on the part of the States to enable them to help those who are in these categories—the aged and the blind.

The reason why I say that is that we did increase social security benefits. If we stayed by the old standard, many of those people would have had to take a reduction in order to get the benefit of an increase. That is why the States, out of their own generosity and compassion for the people who are blind and aged, came in and implemented what we had done by social security.

I hope that that will be given serious thought. I realize that the cost will be about $400 million. But the fact remains that there is tremendous merit to it. I hope that the amendment would be taken to conference, where the problem will be given further study.

Mr. CRANSTON. I am delighted to have the support of the Senator from Rhode Island.

I now yield to the Senator from New York. I am pleased to add Senator JAVITS as a cosponsor of this amendment.

Mr. JAVITS. Mr. President, the Senator from Rhode Island (Mr. PASTORE) has stated clearly what is the State's responsibility. Instead of penalizing them, we should at least keep them whole, and that is what the Cranston amendment seeks to do.

One of the problems of decentralizing responsibility after 30-some years of centralizing is our worry as to whether the States will realize what will happen. When the States add to their responsibility. I am for decentralizing, with the assurance that they will meet their responsibility. That is all the more reason for saving or leaving whole what we want them to do. So I hope the Senate will adopt the amendment.

Mr. LONG. Mr. President, in the committee bill, the committee amendment provides $400 million to help the poor who have been under the social security program. An overwhelming number are receiving social security money, as well as public welfare money, that benefits the poor people in every State in the Union.

By contrast, the amendment of the Senator from California would cost $400 million in 28 States which have been providing no benefits at all—neither to the people nor to the States. So about half of the States would get the money.

Furthermore, the people would not be benefited, but State treasuries would be. New York would get $140 million and California would get $100 million of the $400 million. So those 2 States would get $240 million of the $400 million—about 60 percent for 2 States. The majority of States would get no benefit whatever.

Mr. President, we have provided what will be a considerable assist to the States under present plans, because they notified us they were planning to subsidize the social security program by some $150.

We now push our payment up to $140, $10 more for every one of those recipients. That raises by $10 the amount they will find necessary to supplement those people. We have not up to now made them supplement the payments. That is what they did. They recognized that they should, and they did.

We have left it very substantial for them, as we have for all of the 50 States in the Union, with what we have done in the bill with the $400 million. What he proposes to do with the $400 million would not benefit the people. It would not benefit the majority of the States in the Union. The States that benefit are saving 60 percent of the funds, but the majority of them, will save no funds.

Mr. President, I do not think there is any need for that type of arrangement. There may be some other way in which we can help California and New York with their problems. When some welfare reform bill comes along, perhaps we can find some way to help them with their problems. I do not think that this amendment should be added to the

bill. Frankly, if we were to add something of this sort, the other 28 States would not be benefiting. I would certainly have to insist that the bill go over until tomorrow to find a way to give a chance to the States that are being left out. Under the circumstances, I do not think that we should add the amendment to the bill.

Mr. PASTORE. Mr. President, the trouble here is that the cutoff was January 1972. In my State, the blind and the aged are not living in luxurious circumstances. They need to have a supplement. We went ahead in October of 1972 and raised the category of those that were in that allotment. That was not done to let them buy new Cadillacs. It was done to let them change from dog food to hamburgers.

That was an act of charity. Because we have done that, the Federal Government cannot discriminate in our favor. That is the point that we are trying to establish here today.

In some States the cost of living is much higher than in other States. Rents are much higher. For that reason we have to supplement and implement what was already given to them from a Federal grant, so to speak. Of course, it goes to the poor, unless the States get the money and are made whole. The only way they have to balance the budget would be to give away what they have gained. That would be disastrous.

We have tried in many States to raise the benefits to the point that people could get along.

I realize that a social program is not a popular program. I realize how people feel about it.

We are talking about the aged and the blind. Certainly people walking around with a white stick are not taking advantage of the people or of the Government.

What we are asking for is compassion at this juncture. If the Senator will agree to take the amendment to conference so that we could keep it alive, if we could get the assurance that at some future date we could have our representatives come down and testify, we would be satisfied.

Mr. PACKWOOD. Mr. President, let us put this in perspective. No one will get any money out of this. The blind and the disabled will not get a dime more.

Mr. PASTORE. The Government might have to take it over.

Mr. PACKWOOD. Now that we have amended the bill, no one will get any less money than he is now getting.

Mr. PASTORE. The Senator is correct.

Mr. PACKWOOD. If we pass the amendment, all we will have to do is that the Federal Government will pick up the cost, the $400 million that the States are picking up to pay to the people in order to have them live above a minimum level.

The revenue sharing measure that we passed last year enables some States to make a profit. I understand that the State of California has a $800 million surplus this year. I do not think that it is incumbent upon the Federal Government to pass this measure. If we pass this, it goes right to their treasury.

Mr. PASTORE. The whole purpose of the law was to let the States have the responsibility. But we cut it off when there is an inequity.

Mr. PACKWOOD. That was not the purpose. The purpose was to set a minimum floor. But we have raised it now to $140 for an individual. That is all we promised. Every State had enough money with two exceptions—California and New York. From what they saved from what we picked up of the States' share, they are making more money under the State plan.

Now, after we have saved the States $1 billion in picking up this total that has been freed from the States, the States no longer have to pay that because we pick it up.

Under the pending amendment they want us to pick up another $400 million.

Mr. PASTORE. But the cutoff date is January 1972. That is when the harm was done.

Mr. PACKWOOD. There was no harm.

Mr. PASTORE. This money was paid in order to equalize the burden. We did recognize that the people needed the money. We found that after we had the increase, we had another category. The blind and the aged were a little out of whack.

They are now saying that in a backward State—and I do not want to name any—$140 is enough, because the money will give the people who receive it enough to live, even though it might cost $150 to live.

Mr. PACKWOOD. But if we pass this bill, they would not get any more money.

Mr. LONG. The poor would not get a bit more. Prior to the time the new SSI goes into effect, the Federal Government is paying half of Rhode Island's cost. Under this bill, we pay the first $140, so Rhode Island will pick up about $50 more. With 50–50 matching now, the State has to put up half of the cost.

Mr. PASTORE. I do not mean any impertinence. But how did it affect Louisiana? What was it before and after January 1972? Was it $140? As a matter of fact, the State of Louisiana did not have to pass any law to supplement it.

Mr. LONG. We pay $107 to an aged person with no other income.

Mr. PASTORE. What is the average for Louisiana today? Is it $140? As a matter of fact, Louisiana is making money on the deal and we are losing money.

Mr. LONG. It will go up to $140 next January under the committee bill.

Mr. PASTORE. That is right, it will go up to $140. In Rhode Island, it goes from $140 to $190 in the future under the bill. And that is what I am talking about.

Mr. LONG. Rhode Island, relatively speaking, will save more money than Louisiana will save when the SSI program goes into effect.

Mr. PASTORE. Louisiana has a lot of oil down there. And the Federal Government has closed down our shipyards. We are in tough shape.

Mr. LONG. Mr. President, if we could trade our per capita income with Rhode Island, we would be glad to do so.

Mr. BENNETT. Mr. President, if the Senator will yield, I would like to make a point. We are establishing a principle that the States can take the Federal money, add to it, and come back here a year later and ask that we put up what they have added. The next year they will be back and they will say that they have added more and that we must hold them harmless for what they have done.

We will be asked to go into the business of paying the States for what they have paid.

Mr. PASTORE. What was it before January of 1972 in the State of Utah?

Mr. BENNETT. I do not think that is the point.

Mr. PASTORE. It is the point. Whether one wins or loses is the name of the game. Did the State of Utah win or lose?

Mr. BENNETT. The point is the principle of allowing the States to force the Federal Government to pick up any amount of money that the States add to a Federal program.

Mr. PASTORE. And the Government says to the people of Rhode Island that the floor is $140. The Federal Government is clipping them for $50. And when the Government says to Louisiana that it is giving them $140, it means that it is giving them a profit of the difference between $107 and $140. The Senator does not have to tell me about discrimination.

Mr. LONG. Mr. President, it is not too difficult to see that under the committee bill the Federal Government will pay the first $140. Under present law, we were going to pay the first $130. However, under the committee bill, we will pay the first $140.

Of course, if those people are drawing social security payments, they are permitted to keep $20, and that means a guaranteed monthly income of $160. Then, with the food stamps provided in the Senate agriculture bill, it would make it about $175. The States of Rhode Island, California, and New York would be tremendously benefited by what we are doing.

We were putting up 50 percent in those States. Now we are going to be putting up 100 percent of the first $140. All the States are benefiting, they are all getting helped. California has a $800 million surplus, but they naturally want to replace State money with Federal money. Louisiana does not have any surplus. We think that we have done about everything that we can do now for California and everybody else in the committee bill.

With all due deference, Senator, if you cannot find a way to spend $400 million for a majority of 50 States, I will tell you right now, I doubt that the Senate is going to agree to it.

Which are the States that will not benefit? The States now paying less than $140. The amendment will not benefit one poor person. They would get just as much without the Cranston amendment as with the Cranston amendment. Not one nickel goes to the poor under the amendment.

Under the amendment, what States get the most in the Nation? The richest, not the poorest. Let me just call off those 28 States who will get nothing, if we vote to benefit the wealthiest States of this

Nation. I am glad they are wealthy; I am just sorry there are not more of us here that are.

Here is the list: Alabama, Arizona, Arkansas, Florida, Georgia, Hawaii, Iowa, Kentucky, Louisiana, Maine, Maryland, Mississippi, Missouri, Montana, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, West Virginia, and Wyoming.

We will have the privilege of paying $400 million in taxes for the benefit of the wealthiest States in the Union. What kind of sense does that make? If they cannot find some way to put us in on their amendment, we ought to forget about it. We put them in on our committee amendment. It is a case of taxing the poor to feed the rich.

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

Mr. LONG. I yield to the Senator from Utah.

Mr. BENNETT. Mr. President, I would like to go back to Rhode Island. Last year Rhode Island paid $195, the highest, of which the Federal Government paid $197.50, so all it cost Rhode Island is $197.50. This year we pay $140, so Rhode Island is saving $42.50.

We say to them, "You should take care of whatever you want to add to that out of the $42.50." They are saying, "We are going to add to it, so we want you to give us not only the $140, plus what we have added, and leave us the savings we had last year."

It has not cost the State of Rhode Island as much this year as last year.

Mr. PASTORE. But the point is, it has cost Rhode Island something, and it has not cost Utah or Louisiana anything. It is the way you figure the amount of $140. You all took care of yourselves in that Finance Committee. Then what did you do? You left the rest of us out in the cold. That is the question here.

Mr. BENNETT. That is not the question.

Mr. HUMPHREY. What did they do for Minnesota, John?

Mr. PASTORE. I do not have the figures here; I would not be able to answer that question as to Minnesota. But I know what they did for Rhode Island and for Massachusetts. Of course, California and New York will have to speak for themselves.

Mr. LONG. Minnesota does not get 5 cents out of this. All you do is join Louisiana in paying so some States richer than you get something out of a deal where we do not get any benefit at all. Why should we pay for that? [Laughter.]

Mr. HUMPHREY. I just cannot imagine my senior colleague permitting this to happen.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, let me just say that one statement was made which is not necessarily true for my State or other States. It has been said that only the States benefit. It depends on what the State does. If the State acts to fill this gap, then only the State would benefit, but if it does not, then there would be a loss in income to some blind, disabled, and aged people in my State. They will not gain anything, but they might lose something if the amendment is not adopted.

Mr. TUNNEY. Mr. President, Senator CRANSTON's amendment to H.R. 8410, of which I am a cosponsor, will change the effective date of the "hold harmless" provision of Public Law 92–603 from January 1972 to January 1973. The purpose of this amendment is to assist States which have attempted to provide their aged, blind, and disabled with a decent standard of living.

This provision of H.R. 1 was to encourage the States to maintain payment levels at least the same as those in January, 1972. But many States, California being one, increased their base amounts during 1972 as well, due to the tremendous increases in the cost of living. California provided two such increases: One in August of $5 and one in October of $12. The latter was in response to the 20 percent social security increase. Under the existing provisions of H.R. 1, however, California cannot receive any relief from the Federal Government for continuing to increase its efforts to alleviate the plight of thousands of elderly people.

This amendment will allow partial relief by the Federal Government for those States which have provided supplemental increases. I urge that it be adopted.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. CRANSTON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. GRAVEL). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from California. [Putting the question.]

Mr. PASTORE. I ask for a division, Mr. President.

On a division, the amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, I have an amendment, but I do not know whether the Senator from Louisiana wishes me to submit it at this time or not.

Mr. LONG. Mr. President, I have been urging the Senator to withhold his amendment, hoping that if we could finish tonight, we would take it up as the last order of business.

I know that the Senator from Utah has in mind a proposal which he will present and request a vote on in short order, to simply strike all the amendments and pass the House bill. We will vote on that after we vote on the amendment of the Senator from New York, if we can vote on that tonight.

Are there other amendments which Senators wish to submit tonight? If not, I urge the Senator from New York to proceed with his amendment in question.

Mr. JAVITS. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. JAVITS' amendment is as follows:

TITLE IV—UNEMPLOYMENT COMPENSATION ACT AMENDMENT

SEC. 401. (a) Section 203 (e) (2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'on' or 'off' indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof and as paragraph (1) of section 203 (b) did not contain subparagraph (B) thereof.".

(b) Subsection (f) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"Rate of Insured Unemployment, Covered Employment

"(f) (1) For the purpose of subsection (d), the term 'rate of insured unemployment' means the percentage arrived at by dividing—

"(A) the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period, as determined on the basis of the reports made by all State agencies to the Secretary, by

"(B) the average monthly covered employment for the specified period.

"(2) For the purpose of subsection (e), the term 'rate of insured unemployment' means the percentage arrived by at dividing—

"(A) the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period, as determined on the basis of the reports made by the State agency to the Secretary, by

"(B) the average monthly covered employment for the specified period, plus, if State law so provides effective with respect to compensattion for weeks of unemployment beginning after the date of enactment of this sentence (or, if later, the date established pursuant to State law) the thirteen-week rate (as determined under paragraph (3)).

"(3) The 'thirteen-week exhaustion rate' is the percentage arrived at by dividing—

"(A) 25 per centum of the sum of the exhaustions, during the most recent twelve calendar months ending before the week with respect to which such rate is completed, of regular compensation under the State law, by

"(B) the average monthly covered employment as determined under paragraph (2) (B).

"(4) Determinations under subsection (d) shall be made by the Secretary in accordance with regulations prescribed by him.

"(5) Determinations under subsection (e) shall be made by the State agency in accordance with regulations prescribed by the Secretary."

Mr. JAVITS. Mr. President, on behalf of myself, Senator TUNNEY, and other Senators, I introduce an amendment to H.R. 8410 which would permanently amend the 1970 Federal-State extended unemployment compensation benefits law in order to permit 28 States and Puerto Rico to regain or maintain eligibility to compensation benefits which that law provides. It would also make permanent the limited amendments enacted at the close of last year which have enabled eight States to maintain their eligibility to participate in the program through June 30, 1973. The other co-

sponsors of this amendment are Senators BROOKE, CASE, CRANSTON, HART, MAGNUSON, MOSS, PELL, RIBICOFF, and WILLIAMS.

If enacted promptly, this bill would enable approximately 30,000 workers now exhausting regular unemployment compensation benefits each week to receive an extra 13 weeks of benefits. The total number of workers who could be helped between now and June 30, 1974, exceeds 1.1 million.

The complete list of the States which will be helped by this amendment is as follows:

Alaska, Arkansas, California, Connecticut, Hawaii, Idaho, Kentucky, Louisiana, Maine, and Massachusetts.

Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Dakota, and Oklahoma.

Oregon, Pennsylvania, Puerto Rico, Rhode Island, Utah, Vermont, Washington, West Virginia, and Wisconsin.

The amendment deals with the State "off" and "on" trigger mechanism which determines eligibility for participation in this program. The program on a national basis ended during 1972. However, for sometime thereafter New York and many other States were eligible to participate in the program, because insured unemployment in the State was 120 percent of the rate prevailing in the State in the corresponding period of the previous 2 years, and the State insured unemployment rate was above the trigger rate of 4 percent. But subsequently, despite the fact that the insured unemployment rate in many States remained above the 4-percent level, many States became ineligible to participate in the program due to the 120-percent "off" trigger. In addition, those States in which insured unemployment dropped below the 4 percent and then rose again above that level have been precluded from regaining eligibility for the program.

This amendment would:

First. At the option of every State, permanently eliminate the 120-percent State "on" and "off" triggers. The "off" trigger was eliminated temporarily—until June 30, 1973—by amendments adopted last year. Both the "on" and "off" triggers must be eliminated if States with high unemployment which have triggered out of the program can participate in it again. Also, both the "on" and "off" triggers must be eliminated to protect States in the event that insured unemployment drops below 4 percent and then rises above that figure at a later date.

Second. At the opinion of each State, provide that the exhaustion rate—the number of workers who have exhausted their regular unemployment compensation benefits—will be counted in determining the level of insured unemployment. This same provision was used in the 1971 extended benefits program which the Congress extended last June for an additional 6 months. It is artificial—and really unconscionable—to exclude persons who have exhausted their regular unemployment compensation benefits in determining eligibility for this program.

Third. At the option of each State, eliminate the requirement that a State which triggers out of the program must wait at least 13 weeks before it may requalify. The 13-week waiting period is unnecessary in view of the fact that the insured unemployment rate is computed on the basis of a 13-week running average. The use of a 13-week average is adequate to take care of any problem caused by statistical variation or very shortrun disemployment effects.

Under the amendment, the only test which would have to be met by the States to qualify—or requalify—for an extended benefit period is an insured unemployment rate in excess of 4 percent. Insured unemployment is, of course, always lower than total unemployment: a 4-percent insured unemployment rate may translate into a total unemployment rate of 5.5 percent or higher. As noted, this amendment would require counting persons who have exhausted their regular benefits in determining insured unemployment.

The amendment I introduce today is similar to an amendment actually passed by the Senate last year to the debt-ceiling bill to be effective through June 30, 1973. But in the House-Senate conference on that bill, its impact was drastically reduced when the House-Senate conferees agreed on provisions which eliminated only the 120-percent "off" trigger. When the conference report was considered last year, I and the Senator from California (Mr. TUNNEY) expressed our concern that the amendment agreed upon by the conference would not really help many of the States which had been triggered out of the program. At that time, the chairman of the House Ways and Means Committee, and the chairman of the Senate Finance Committee assured us on the floor of the House and Senate respectively, that if, this winter, insured unemployment was over the 4-percent level in those States which would have been helped by the Senate version of the amendment, but were not helped under the conference version of the amendment, they would sympathetically consider legislation along the lines of the amendment passed by the Senate designed to help such States.

Mr. President, I ask unanimous consent that excerpts from the CONGRESSIONAL RECORD of October 18, 1972, containing the statements I have referred to by the chairman of the House Ways and Means Committee and the chairman of the Senate Finance Committee be printed in the RECORD at this point in my remarks: CONGRESSIONAL RECORD—House, page H10310; CONGRESSIONAL RECORD—Senate, page S18646.

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

FUTURE REVIEW OF UNEMPLOYMENT SITUATION

(Mr. MILLS of Arkansas asked and was given permission to address the House for 1 minute.)

Mr. MILLS of Arkansas. Mr. Speaker, we are in the closing hours, we hope, of a sine die adjournment, but there is a problem existing in the other body, and I am in hopes that I can clarify the situation to the satisfaction of those who see a problem existing and want to do something about it at this time. I just discussed the matter with two of our very distinguished friends from the other body, Senator JAVITS from the State of New York and Senator TUNNEY from the State of California. They are very concerned that there will be a greater degree of unemployment within their States some time during the early part of next year, and that if the House had accepted the Senate amendment on unemployment compensation, their States would have been protected, should that situation develop.

Now they will not be protected, as they know, in the event that there is a rise in unemployment in their States under the language that the House has agreed to that is pending before the Senate.

Naturally, fulfilling their responsibilities as Senators to their constituents, they are most anxious that something be done about it. I want to say this about unemployment in New York State and California, or anywhere else.

If we do have a rise in the rate of unemployment within these States or any other States, I want them to know and I want the Speaker to know and I want the public to know that I would be as much interested in trying to do something for the benefit of those people who are unemployed as they or any other Senators would be interested.

If this situation comes about, I think the proper way to do it is to go back to the temporary unemployment compensation program, as my good friend, the gentleman from Wisconsin, earlier suggested, and determine some more satisfactory method of triggering this program into existence and triggering it off, so that we do not have the anomalous situation existing of high levels of unemployment within a State for 3 or 4 years, but because the unemployment rate is not 120 percent greater than it was in the 2 preceding years, even though it may be at an 8-percent rate, because it was at an 8-percent rate in those years, this programs triggers off. To me that is not right.

I would want to assure them that if they have any fears about my own position, they need not have any fears about my desire to take care of the situation.

I wanted to say that while they were present here on the floor.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Texas.

Mr. PICKLE. The gentleman is mindful of the colloquy we had earlier today. I was not here when the bill, H.R. 16810, was presented to the House. If I had been I would have objected to the manner in which it was presented.

I will say to the gentleman, since I see two of our distinguished colleagues from the other body here in the Chamber, I want the gentleman from Arkansas to know if the bill, H.R. 16810, comes back in a different form from what it was when it passed this House, I will make it quite plain I will object.

Mr. MILLS of Arkansas. I understand the gentleman's position. He has made it clear before. I am not talking about that. I am talking about the situation next year. I know the gentleman from Texas would be as sympathetic in that case as I am.

Mr. PICKLE. Yes. The present Magnuson bill for States with chronic unemployment will not expire until actually the end of the year, and with the benefits we have been able to give they will go to early spring. But unless we include some other States, some 15 more than we did this afternoon, I will object.

Mr. MILLS of Arkansas. What we are talking about is the situation the Ways and Means Committee will look into and try to provide a remedy that will take care of that, and I am satisfied my friend, the gentleman from Texas, would want to do that next year if this develops.

I am sorry my friend, the gentleman from Wisconsin, will not be here with us, but what we are talking about is exactly in line with what he suggested earlier in the day: Let us go back and review the formula we have

and make it work more satisfactorily than the present formula works.

PUBLIC DEBT LIMITATION—CONFERENCE REPORT

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate the conference report on H.R. 16810.

The PRESIDING OFFICER (Mr. FANNIN) laid before the Senate and the Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16810) to provide for a temporary increase in the public debt limitation, and to place a limitation on expenditures and net lending for the fiscal year ending June 1973.

Mr. LONG. Mr. President, during the period that has elapsed, while other matters were transpiring, conferences have been held and the situation has been discussed with regard to unemployment insurance. I am aware of the fact that the chairman of the House Ways and Means Committee has assured the Senators from New York and California that in the event the uninsured unemployment rate in January 1973 in those States should exceed 4 percent—and I would assume the same thing would be true of other urbanized States—and this becomes a problem, the chairman of that committee would propose to offer and support legislation to bring them under the Federal extended unemployment provisions contained on this debt ceiling conference report.

The Senate position, of course, would have brought them into it under the legislation that we sent them, and as far as the Senator from Louisiana is concerned, assuming that he is appointed chairman of the committee at that time, or even if he is not and is the ranking member, he would expect to use his best efforts to see to it that if that type of eventuality should develop, and some feel that it might, those States will receive prompt consideration.

Such a resolution must originate in the House of Representatives. They must send us a bill to afford us an opportunity to act. But I want to assure the Senators from those two States that if this situation should develop, and the House should send us legislation so that we would have the opportunity to act, they would have complete cooperation from the Senator from Louisiana in seeing that it was acted upon promptly.

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

Mr. LONG. I yield.

Mr. JAVITS. Mr. President, I greatly appreciate that. I have every feeling that if we are in that situation, relief will be available to us.

I would bear in mind the injunction of the chairman of the Finance Committee that if such a bill comes over here, I would hope a lot of nongermane amendments are not hung on it, and we would certainly expect to cooperate with him on that, as would, know, the majority leader. The minority lead has given the same assurance, as has the distinguished chairman of the Committee on Commerce (Mr. MAGNUSON).

May I say, too, that in discussing the matter in the House of Representatives, which Representative MILLS did publicly while the Senator from California and I were there, making, generally speaking, in his own words the same statement Representative MILLS emphasized the fact that under these circumstances, with 4 percent uninsured unemployment, he would consider, the so-called 120 percent figure unduly restrictive and would look with great sympathy upon such legislation.

May I have an expression of opinion from the Senator from Louisiana about these things?

Mr. LONG. Mr. President, as far as the Senator from Louisiana is concerned, our bill so indicated. I supported our bill and if I had had the opportunity to bring in a conference report that included New York, I would certainly have asked that this 120-percent trigger should be deleted, or at least modified so that it would not prevent benefits in the fashion it does. If the House will help to solve that problem, the Senator can be sure that, so far as the Senator from Louisiana is concerned, I will help work it out.

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

Mr. LONG. I yield.

Mr. BENNETT. The Senator from Utah just wants to make the record clear that while the chairman has referred to New York and California, this will apply to any State in the Union, if the system adopted should trigger the benefits for that State, and it will not be legislation intended chiefly for the big States.

Mr. LONG. Yes.

The reason why the record might appear to indicate that such a measure is intended for the good of two States is that New York and California would have the greatest number of people involved. But other States are also involved.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart showing the numbers of people and the cost of the Senate bill. This is what we will look at again next year if the situation should require.

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

TABLE 1.—STATES AFFECTED BY SENATE BILL

State	Number of beneficiaries	Costs (Federal and State share, in thousands)
Alaska	1,100–1,500	$600–$800
Arkansas	2,750	1,000
California	140,000–150,000	80,000–90,000
Hawaii [1]	1,500–2,500	1,000–1,500
Idaho	1,500	350–400
Kentucky	5,000	2,000
Louisiana	6,000–6,500	2,400–2,700
Maine	7,000–8,000	3,000–3,500
Massachusetts	49,000	30,000
Michigan	71,400–97,300	40,700–55,400
Minnesota	11,000–13,000	4,900–5,500
Montana	1,700	435
Nevada	6,700	3,600
New Jersey	80,000–120,000	48,000–72,000
New Mexico	400– 600	200– 300
New York	170,000–200,000	80,000–120,000
North Dakota	1,200	860
Ohio	12,000– 20,000	8,000– 10,000
Oregon	11,000– 14,000	4,000– 5,000
Pennsylvania [1]	22,000– 37,600	11,000– 18,800
Rhode Island	8,000– 9,000	5,000
Utah	1,900	850
Vermont [1]	3,600	2,000– 3,000
Washington	42,000	17,000
West Virginia	1,500	450
Total (about)	650,000–800,000	350,000–450,000

[1] Currently paying (these are costs after State drops below 120%).

Note: Assumes some economic improvement between Oct. 1, 1972, and July 1, 1973, and does not take account of emergency benefits payable under Public Law 91–373. Estimates prepared in consultation with the States. Federal share of cost would be half of total shown.

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

Mr. LONG. I yield.

Mr. MAGNUSON. What the Senator from Utah has said is correct. This whole problem has to be a piece of permanent legislation. I think that is what we are shaping up to next year, so that it will apply to any State where there is serious unemployment; because it does not make any difference what State you are in—if you are out of work, you are out of work.

I appreciate the problem, and I want to reiterate that I appreciate the problem that the members of the committee had on this matter with the House. I must say to the Senator from New York and the Senator from California that no one will be stronger in cosponsoring some legislation of this type and helping out than will the Senator from Washington next year.

Mr. JAVITS. If the Senator will yield, I appreciate that, I want to say again that, notwithstanding that the Senator from Washington was included and we were excluded, he fought very hard for us, without any reservation whatever, and that the Senator from Louisiana was willing to exclude his own State, which is going pretty far. I certainly do not think that is necessary.

Mr. President, just to complete the record, I ask unanimous consent to have printed in the RECORD a list showing the States which are covered and those which are not covered.

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

Oct. 1, 1972–June 30, 1973—States affected (these costs are only the costs of this amendment and do not include the costs of the EB program under Public Law 91–373 as currently operative.)

[States not included in the conference report are in parentheses]

State	Number of beneficiaries	Costs (Federal and State share) (thousands)
Alaska	1,100–1,500	$600–$800
(Arkansas)	2,750	1,000
(California)	140,000–150,000	80,000–90,000
(Hawaii) [1]	1,500–2,500	1,000–1,500
(Idaho)	1,500	350–400
(Kentucky)	5,000	2,000
(Louisiana)	6,000–6,500	2,400–2,700
Maine	7,000–8,000	3,000–3,500
Massachusetts	49,300	30,000
Michigan	71,400 97,300	40,700–55,400
(Minnesota)	11,000–13,000	4,900–5,500
(Montana)	1,700	435
Nevada	6,700	3,600
New Jersey	80,000–120,000	48,000–72,000
(New Mexico)	400–600	200–300
(New York)	170,000–200,000	80,000–120,000
(Ohio)	12,000–20,000	8,000–10,000
(Oregon)	11,000–14,000	4,000–5,000
(Pennsylvania) [1]	22,000–37,600	11,000–18,800
Puerto Rico	(2)	(2)
Rhode Island	8,000–9,000	5,000
(Utah)	1,900	850
Vermont [1]	3,600	2,000–3,000
Washington	42,000	17,000
(West Virginia)	1,500	450
(North Dakota)	1,200	860
(Connecticut)	(2)	(2)
Total	658,550–797,150	347,345–450,095

[1] Currently paying (these are costs after State drops below 120 percent).
[2] Not available.

Note: Assumes some economic improvement between Oct. 1, 1972, and July 1, 1973. Estimates prepared in consultation with The States, Federal share of cost would be half of total shown

Mr. JAVITS. I point out that the list of States not covered includes such sparsely populated States as Montana and Louisiana, which happen to be the States of the majority leader and the chairman, as well as Hawaii, Idaho, Arkansas, North Dakota, and so forth. I thank the Senator from Utah for making that clear. There is no exclusivity about this.

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD a list of the States that would benefit under what we were able to work out with the House.

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

STATES AFFECTED BY THE PROVISION AGREED TO BY THE CONFEREES

States	Estimated maximum number of beneficiaries	Estimated maximum total additional costs (thousands)
Alaska	1,100–1,500	$600–$800
Maine	7,000–8,000	3,000–3,500
Massachusetts	49,300	30,000
Michigan	71,400–97,300	40,700–55,400

States	Estimated maximum number of beneficiaries	Estimated maximum total additional costs (thousands)
Nevada	6,700	3,600
New Jersey	80,000–120,000	48,000–72,000
Puerto Rico	33,000–42,000	9,000–11,000
Rhode Island	8,000–9,000	5,000
Vermont	3,600	2,000–3,000
Washington	42,000	17,000
Total	300,000–380,000	160,900–202,100
Federal share		$80,000–101,000

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Despite this history, no consideration whatever has been given to legislation affecting the trigger requirements of the extended unemployment compensation benefits program. Indeed, as matters now stand the following eight additional States, who were benefited by the amendment adopted last year will lose their eligibility to participate in the program, because the amendment is only effective through July 30, 1973:

Alaska, Hawaii, Massachusettes, New Jersey, Puerto Rico, Rhode Island, Vermont, and Washington.

I ask unanimous consent that a table prepared by the Department of Labor showing the status of each State, the number of workers potentially affected by this amendment, and the cost of participation by the States be printed in the RECORD at this point.

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

TABLE I.—ESTIMATED BENEFICIARIES AND BENEFIT COSTS WITH A 4-PERCENT TRIGGER WITH AND WITHOUT EXHAUSTEES USED IN CALCULATING THE RATE

[Dollar amounts in millions]

	Number of beneficiaries (thousands)		Federal costs		State costs	
	With Exhaustees	Without Exhaustees	With Exhaustees	Without Exhaustees	With Exhaustees	Without Exhaustees
Alabama						
Alaska	5.8	5.8	$1.4	$1.4	$1.3	$1.3
Arizona						
Arkansas	2.5	0	.5	0	.5	0
California	232.4	174.3	62.8	47.2	62.8	47.2
Colorado						
Connecticut	43.6	21.8	14.0	7.0	14.0	7.0
Delaware						
District of Columbia						
Florida						
Georgia						
Hawaii	9.0	5.9	2.9	1.9	2.9	1.9
Idaho	3.4	1.4	.9	.4	.9	.4
Illinois						
Indiana						
Iowa						
Kansas						
Kentucky	3.6	0	.9	0	.9	0
Louisiana	18.6	0	4.5	0	4.1	0
Maine	12.9	9.7	3.0	2.3	3.0	2.3
Maryland						
Massachusetts	105.5	105.5	27.2	27.2	22.2	22.2
Michigan	97.7	48.9	28.2	14.1	28.2	14.1
Minnesota	19.6	7.3	5.1	1.9	5.1	1.9
Mississippi						
Missouri	7.4	0	1.8	0	1.8	0
Montana	4.2	2.3	.9	.5	.9	.5
Nebraska						
Nevada	9.5	9.5	$2.8	$8.8	$8.8	$8.8
New Hampshire						
New Jersey	111.8	111.8	36.1	36.1	36.1	36.1
New Mexico	2.8	1.5	.6	.4	.5	.3
New York	185.4	92.7	53.7	26.8	53.7	26.8
North Carolina						
North Dakota	1.6	.8	.4	.2	.4	.2
Ohio						
Oklahoma	9.2	0	1.9	0	1.9	0
Oregon	11.4	10.5	2.6	2.4	2.6	2.4
Pennsylvania	91.4	53.6	28.7	16.8	23.4	13.7
Puerto Rico	42.3	42.3	8.5	8.5	8.5	8.5
Rhode Island	15.7	15.7	4.5	4.5	4.5	4.5
South Carolina						
South Dakota						
Tennessee						
Texas						
Utah	3.5	2.7	.9	.7	.6	.4
Vermont	3.6	3.5	1.0	1.0	1.0	1.0
Virginia						
Washington	69.8	69.8	20.2	20.2	16.5	16.5
West Virginia	5.7	2.6	1.1	.5	1.1	.5
Wisconsin	5.1	0	2.4	0	1.6	0
Wyoming						
Total	1,135.0	799.9	319.5	224.8	303.8	212.5

Assumptions:

1. The State Unemployment rates are assumed to be the same for FY 74 as they were for FY 73. This implies that the unemployment rates will be higher than would be under the Administration's assumption of continued improvement in unemployment. This assumption was made because of the length of time it would take to make the estimate under the administrative assumption.

2. The average weekly benefit amount is assumed to increase five percent per year. The base is calendar year 1972.

3. The average duration of extended benefits is assumed to be nine weeks except for Puerto Rico where it is assumed to be eight weeks.

4. For those States who do not have a 26 week maximum duration of benefits, the survival rate is assumed to be .95 in calculating the number of exhaustees who would be claimants under an extended benefit program.

5. The difference between the State and Federal shares occur in those States where the maximum regular benefits are longer than 26 weeks thus these States are paying some benefits which would be sharable without the trigger.

Mr. JAVITS. Unfortunately, what the Senator from California and I foresaw last winter came true. In the following States insured unemployment rose above 4 percent this winter, but the States were precluded from participating in the extended benefits program:

Arkansas, California, Connecticut, Idaho, Maine, Michigan, Montana, Nevada, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Utah, and West Virginia.

If the exhaustion rate were counted in determining insured unemployment levels, the following States could also have qualified to participate in the program:

Kentucky, Louisiana, Minnesota, Missouri, and Oklahoma.

In view of this fact, I joined with Senators TUNNEY, BROOKE, CASE, HART, HUMPHREY, KENNEDY, METCALF, MONDALE, MOSS, PELL, RIBICOFF, and WILLIAMS on February 22, 1972, in introducing S. 980, and on the same day, Senator TUNNEY and I wrote identical letters to Senator LONG and Congressman MILLS. I ask unanimous consent that the text of our letters be printed in the RECORD at this time.

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

U.S. SENATE,
Washington, D.C., February 22, 1973.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, Washington, D.C.

DEAR CHAIRMAN LONG: I am sure you will recall our talk and the statements on the Senate floor last October concerning amendments to the 1970 Federal-State Extended Unemployment Benefits Program designed to remove the arbitrary trigger requirements which have disqualified many states from participating in the program. Our information is that at present in the following states, which have been disqualified from the program, insured unemployment now exceeds four percent:

California, Maine, Montana, New York, Nevada, and Oregon.

In addition, the following states are expected to reach the four percent level within the next several weeks:

Arkansas, Connecticut, Idaho, Michigan, New Mexico, New York, North Dakota, Pennsylvania, Utah, and West Virginia.

If those who have exhausted regular benefits are counted in determining insured unemployment, the following additional states would meet the four percent insured unemployment requirements:

Kentucky, Louisiana, Minnesota, Missouri, and Oklahoma.

As the law presently stands, none of these states can regain eligibility to participate in the program with the result that over 22,500 workers in those states are exhausting their regular benefits each week with no right to any extended benefits.

At the time this matter was discussed last year, you were kind enough to assure us that in the event that insured unemployment level was over four percent in those states which would have been benefited from the Senate passed amendment to the 1970 Federal-State Extended Benefits program, but were excluded under the amendment agreed to in the conference on the debt-ceiling bill, you

would consider sympathetically changes in the "trigger" criteria in present law to permit those states to regain eligibility to participate in the extended benefits program.

On February 22, together with 11 other senators we introduced a bill, similar to the amendment passed by the Senate last year, which we believe would make the permanent changes in existing law required to permit the states now excluded from the program to regain their eligibility. Our bill would also enable the eight states, namely Massachusetts, New Jersey, Rhode Island, Washington, Alaska, Hawaii, Vermont, and Puerto Rico, which have been able to maintain their eligibility because of the amendment enacted last year, to remain eligible beyond June 30, 1973, the expiration date of the amendment. We hope very much that, in view of the numbers of workers immediately involved, and the understanding we reached last year, your committee can give this matter its attention at this time.

With best wishes,

Sincerely,

JACOB K. JAVITS,
JOHN V. TUNNEY.

Mr. JAVITS. I further point out that this amendment would not automatically require participation of all the States listed in the table. It would still be up to each individual State, at its option, to enact legislation taking advantage of the liberalization of the trigger requirements provided for in this legislation.

Mr. President, in New York alone, currently close to 3,000 people per week are exhausting their regular 26 weeks of unemployment benefits. The insured unemployment rate is over 3.6 percent and the exhaustion rate is 0.6 percent. Nationally, the current total is approximately 30,000 workers exhausting their regular benefits each week without being eligible to qualify for 13 weeks of extended benefits—all because of the wholly arbitrary triggers in existing law and the exclusion of persons who have exhausted regular unemployment compensation benefits from the definition of insured unemployment.

Last year the administration opposed this amendment, because of its allegedly high cost. I pointed out then, and reiterate now, that although the cost of this program appears as a budget item, it is actually financed entirely out of taxes levied on employers which are paid into trust funds administered by the Federal Government. It is thus highly misleading to characterize unemployment compensation payments as an item of cost to the Federal Government.

Mr. President, in all good conscience we cannot let encouraging news on business front, or our concern with cooling-off inflation, lead us to forget about millions of unemployed workers throughout the United States. The least we can do for the long-term unemployed who, in a sense, are casualties of our fight against inflation, is to reinstate the 13-week extended benefits program in those States where insured unemployment is above 4 percent, even though the level has dropped below that figure briefly in the recent past, and even though unemployment is not 20 percent above the level of the previous 2 years. For far too long our commitment to full employment has been more apparent than real; we ought not to wait any longer to deal justly with the immense human problems caused by the excessive unemployment we have been experiencing, and are still experiencing.

Mr. President, this is a long-standing issue, in which we were frustrated at the end of the last session. It will be remembered that the Senate passed this amendment, essentially, at the end of the last session, and that it was dropped in conference; that there was so much interest in it as to have probably defeated the conference report, but the limitation of time then made us feel that we did not want to be dogs in the manger, and upon receiving the assurances of the distinguished Senator from Louisiana in this body and the distinguished Representative from Arkansas (Mr. MILLS) in the other body, that if we had a problem in the winter of 1972–73 they would give us the utmost consideration, and that was stated on the floor—that we could get urgent consideration for this legislation, and it would be put on some other bill.

Well, Mr. President, I am not quarreling about that. We have all lived here together too long, and understand our exigencies too much, to try to carry on an amendment on any such basis as somebody promised me. It should stand or fall on its own merits, depending on the situation which our country faces now. But I only state this as background, to show that this is not some new idea we have brought up, but a matter of the greatest importance.

What it raises is the question of whether the United States, through this legislation, shall assure those who are unemployed beyond the duration of the unemployment period for which they are covered by the normal unemployment compensation an additional 13 weeks—which represents emergency unemployment compensation.

Mr. RIBICOFF. Mr. President, I am pleased to support the amendment to the debt ceiling bill which amends the extended benefits unemployment program. Earlier this year Senator JAVITS, I, and a number of other Senators introduced this legislation to permanently amend the 1970 Federal-State extended unemployment compensation benefits law in order to permit over 20 States, including Connecticut, to regain eligibility for benefits. Under present law many States have triggered out of the program because of the outdated trigger mechanism.

Until last year unemployed workers were eligible for benefits only if the insured unemployment rate was 120 percent of the rate prevailing in the State in the previous 2 years. This meant that unemployment has to be rising by 20 percent for a State to remain eligible. Another factor also was included in the trigger. A State's insured unemployment rate had to be at 4 percent. But the definition of the "insured" rate raised substantial problems.

Last year we succeeded in eliminating the 120 percent "off" trigger as an amendment to the debt ceiling bill. This meant that States like Connecticut, whose employment rate had stabilized at a higher level, could remain eligible.

But the 4-percent "insured" unemployment rate trigger remained in law and the complex trigger mechanism prevented States like Connecticut from maintaining benefits for long. Today, Connecticut is ineligible for the extended benefits program. The manner in which this trigger operates has seriously hampered the intent of the unemployment insurance program. It looks at the "insured" unemployment rate rather than at the unemployment rate which most people hear about.

The "insured" unemployment rate counts only those people who are unemployed and receiving unemployment insurance benefits. When a person exhausts his benefits he is no longer counted in the "insured" unemployment rate. He loses his benefits, remains unemployed, but the "insured" unemployment rate goes down, giving the impression that employment is picking up.

The amendment we are offering to the debt ceiling legislation would do three things:

First. Permanently eliminate the 120-percent State "on" and "off" triggers. The "off" trigger was eliminated temporarily—until June 30, 1973—by amendments adopted last year. Both the "on" and "off" triggers must be eliminated if States with high unemployment which have triggered out of the program can participate in it again. Also, both the "on" and "off" triggers must be eliminated to protect States in the event that insured unemployment drops below 4 percent and then rises above that figure at a later date.

Second. Provide that the exhaustion rate—the number of workers who have exhausted their regular unemployment compensation benefits—will be counted in determining the level of insured unemployment. This same provision is used in the 1971 extended benefits program which the Congress extended last June for an additional 6 months. It is artificial—and really unconscionable—to exclude persons who have exhausted their regular unemployment compensation benefits in determining eligibility for this program.

Third. Eliminate the requirement that a State which triggers out of the program must wait at least 13 weeks before it may requalify. The 13-week waiting period is unnecessary in view of the fact that the insured unemployment rate is computed on the basis of a 13-week running average. The use of a 13-week average is adequate to take care of any problem caused by statistical variation or very shortrun disemployment effects.

Under the amendment, the only test which would have to be met by the States to qualify—or requalify—for an extended benefit period is an insured unemployment rate in excess of 4 percent. Insured unemployment is, of course, always lower than total unemployment: a 4-percent insured unemployment rate may translate into a total unemployment rate of 5.5 percent or higher. As noted, this bill would require counting persons who have exhausted their regular benefits in determining insured unemployment.

In Connecticut this proposal would restore unemployment benefits to as many as 39,000 unemployed workers. While the economy has improved somewhat since last year, Connecticut still suffers an unemployment state of 5.3 percent. These workers, who have families to support, cannot be expected to wait for a long-run

improvement in the economy. They need help now. This amendment would provide that aid.

I hope that our chairman will see fit to accept this amendment. It is obvious we have so much confusion in the whole field of unemployment compensation that the time is here for the Finance Committee really to redo the entire definitions and the law concerning unemployment compensation.

What is not understood is that the phrase "insured unemployment" is an anomaly. Is it not correct, if I may have the attention of the Senator from New York, that when we talk about the insured unemployment rate, we are counting only those people who are unemployed and receiving benefits. When a person exhausts his benefits, he is no longer counted in the insured rates even though he remains unemployed. So we may have a situation where the unemployment in the State keeps increasing all the time yet the insured unemployment rate is decreasing.

Mr. JAVITS. That is exactly right.

Mr. RIBICOFF. What we must do to make sure that we have equity, we must count the people who have exhausted their unemployment benefits as well as those people who are receiving their unemployment benefits under these circumstances. We are doing a great injustice to the States which are suffering the most, because unemployment is of long duration and people have exhausted their benefits and those individuals who are up against the wall, who have to go on welfare, are not able to get unemployment compensation.

What the Senator from New York is doing is trying to get an equitable formula. When we say a person is unemployed, he is unemployed. There is no use kidding everyone along by using the phrase "insured unemployment," which is a misnomer and really a fake phrase.

Mr. JAVITS. I thank my colleague from Connecticut very much for that explanation which is very helpful with respect to this particular matter.

Mr. MAGNUSON. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. MAGNUSON. I support the amendment because it clears up the issue I presented on the debt ceiling bill last October. As the Senator from Connecticut will remember, we had an emergency in my State and his with unemployment of 12 percent and 8 percent, respectively. This will provide a permanent answer, will it not, I say to the Senator from New York. Some States are still above the 6-percent level. In my State it is about 8½ or 9 percent; but it has stabilized. It has not gone up or come down for quite some time.

Mr. JAVITS. Exactly.

Mr. MAGNUSON. But in the meantime, the time on the prior extension of unemployment benefits is running out.

Mr. JAVITS. Exactly.

Mr. MAGNUSON. Then these workers will have to go on welfare. I know what welfare costs. It is so much better to take care of social problems in this way. When we discussed this last year and the year before on my emergency amendments, we all made the point that there should be a permanent program to take care of this matter.

Mr. JAVITS. That is exactly right.

Mr. MAGNUSON. This clears up the matter for all the States. Any State may be faced with this dilemma. Unemployment is spotty in some cases.

I heartily support the amendment, because last year the Senator from New York and the Senator from Connecticut and the Senator from California, and other Senators, were so helpful in helping me enact my two major emergency extensions.

Mr. RIBICOFF. Mr. President, we should make it permanent in the State of Connecticut.

Mr. MAGNUSON. We have still got a lot of unemployment in my State but, thank the Lord, the rate has not gone up.

Mr. JAVITS. But the Senator's State will be penalized——

Mr. MAGNUSON. Yes, we will be penalized for that and this will take care of it.

Mr. JAVITS. I now yield to my colleague from California (Mr. TUNNEY).

Mr. TUNNEY. Mr. President, I am delighted to join with the distinguished senior Senator from New York cosponsoring this amendment.

California continues to suffer from high levels of unemployment. Many working men and women, through no fault of their own, find themselves out of jobs and out of unemployment compensation benefits and will immediately benefit from passage of this amendment.

Specifically, during the month of May, more than 17,000 Californians exhausted their unemployment compensation benefits. These people represented just over 22 percent of all those receiving such benefits. If the present unemployment situation were to continue, more than 102,000 Californians could be expected to benefit from the proposed extension of unemployment compensation eligibility between now and the end of this year.

Unfortunately, Mr. President, the consensus among forecasters is that we face an economic slowdown, possibly even a full-blown recession, in late 1973 and 1974 so that recent improvements in the employment situation will be reversed.

We can thus anticipate that the numbers of unemployed exhausting their benefits will rise substantially. The urgency of this amendment is, therefore, greater than ever before.

Mr. President, according to the latest available statistics for the State of California, more than 421,000 members of the labor force are now out of work. On a seasonably adjusted basis, this means that 4.9 percent of those in the work force, are presently seeking work without success. Many have exhausted their unemployment benefits and many more will be in the same position in the weeks and months to come.

Chairman WILBUR MILLS of the House Ways and Means Committee has indicated his support for the substance of this amendment. In view of the widely recognized need for extension of unemployment compensation benefits and the favorable prospects for House passage, I urge the Senate to approve this amendment without further delay.

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

The yeas and nays were ordered.

Mr. JAVITS. Now, Mr. President, a word or two of further explanation. The number of workers involved is approximately 30,000 each week who are exhausting their regular benefits. The total number of workers that we estimate could be assisted between now and June 30, 1974, exceeds 1,100,000.

Every Member has been given a letter addressed to him which specifies the States involved during fiscal year 1974, and I ask unanimous consent to have it printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., June 27, 1973.

DEAR COLLEAGUE: As you may recall, the Senate last year on several occasions adopted an amendment to modify the "trigger" requirements of the 1970 Extended Unemployment Compensation Benefits Program. A modified version of the amendment was finally included in the Debt-Ceiling Bill enacted at the close of the last Congress. In the modified version finally adopted, the amendment helped eight States retain their eligibility to participate in the extended unemployment compensation benefits program through June 30, 1973, but did not help most of the more than 25 States which triggered out of the program during 1972.

At the time the amendment was adopted last year, we received assurances from the Chairman of the Senate Finance Committee and the House Ways and Means Committee that this matter would be taken up by the respective Committees early this year. Despite the fact that there has been no material improvement in the unemployment situation, no action has been taken on this matter until now. Accordingly, together with a number of our colleagues, we have introduced an amendment to H.R. 8410, the Debt-Ceiling Bill, which would help the following States regain or maintain their eligibility to participate in the extended benefits program:

Alaska, Arkansas, California, Connecticut, Hawaii, Idaho, Kentucky, Louisiana, Maine, Massachusetts.

Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Dakota, Oklahoma.

Oregon, Pennsylvania, Puerto Rico, Rhode Island, Utah, Vermont, Washington, West Virginia, Wisconsin.

The amendment would:

1. Eliminate the 120 percent State "on" and "off" triggers. Both the "on" and "off" triggers must be eliminated if States with high unemployment which have triggered out of the program can participate in it again. Also, both the "on" and "off" triggers must be eliminated to protect States in the event that insured unemployment drops below four percent and then rises above that figure at a later date.

2. Include in the definition of unemployment the exhaustion rate, i.e., those who have exhausted their regular benefits. These are the very people whom the amendment is designed to benefit.*

*The insured unemployment rate under present law does not take into account unemployed persons who have exhausted their regular compensation benefits or persons who are not covered by the unemployment insurance program. Thus, insured unemployment is less than overall unemployment; an insured unemployment rate of four percent frequently means an overall unemployment rate of 5.5 percent.

3. Eliminate the requirement that a State which triggers out of the program must wait at least 13 weeks before it may requalify. The 13-week waiting period is unnecessary in view of the fact that the insured unemployment rate is computed on the basis of a 13-week running average. The use of a 13-week average is adequate to take care of any problems caused by statistical variation or a very short run disemployment effect. Each of these changes would be made optional with the States.

We are all aware that despite some improvement in the employment situation, there are many areas of the country where unemployment has been and threatens to remain at unacceptably high levels.

Insofar as the "cost" of this program is concerned, it is to be noted that this program is financed almost entirely by employers through payroll taxes levied by the Federal and State governments. Thus, although the benefits paid show up as an item in the current budget, there is actually no long run "cost" to the Federal government.

We hope that you will support our amendment when it is offered. For your convenience, attached is a table prepared by the Administration showing the States, and the number of workers in each State, which would benefit from our amendment.

Sincerely,

JACOB K. JAVITS,
JOHN V. TUNNEY.

Mr. MAGNUSON. Mr. President, I want to ask another question. This would eliminate, too, the very unfair 120 percent triggers, would it not?

Mr. JAVITS. It would. We have the standard of the insured unemployment plus the fact that reason would prevail about those who would have exhausted their benefits, being counted instead of not being counted, because they have not had the misfortune to be unemployed for so long.

One final thing, the question of cost, including those who have exhausted their benefits, the estimate in terms of millions of dollars per annum is $224 million Federal and $212 million, State.

Mr. President, if we continue to exclude those who have exhausted their benefits which seems completely unreasonable, the cost would be, rather—I am sorry, the first figure, that is, if we include those who have exhausted their benefits—and I beg the Senate's pardon, if they will hear me—it is $319 million, Federal, and $303 million, State.

That is Federal and State. If we continue to exclude those who exhausted their benefits, the costs are 244 and 212, respectively.

Unemployment compensation represents a tax. Employers pay unemployment compensation taxes. Whether or not these sums would represent any additional charge upon employers depends upon the particular state of the unemployment insurance fund in each State. If States have been provident in respect of their unemployment insurance funds and have adequate resources in those funds, no State tax increase would be required.

So far as the States are concerned which do not have any kind of kitty of that character, those States—we do not know just which ones, for obvious reasons—might conceivably be compelled to adjust their unemployment compensation tax.

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

Mr. JAVITS. I yield.

Mr. RIBICOFF. The Senator from Washington may recall that when the same matter came before us last year, in a colloquy, we then had the figure. We showed that the cost of welfare exceeded by far the amount paid in unemployment compensation. So, while the figures the Senator is bringing forth sound like many million dollars, on a net basis it will cost less than if we had to pay welfare payments to the people who would otherwise receive unemployment compensation. Does the Senator recall?

Mr. MAGNUSON. Yes, I do, and I know the figures well. It costs more to have this person on welfare than it does to continue this program.

Let us leave out the cost. There is the humiliation and the embarrassment of a man who wants to work and who for economic reasons has to go on welfare.

Earlier we had some amendments dealing with aged persons. After a fellow is 45 and loses his job, exhausts his unemployment benefits, he sometimes loses his spirit. He says, "What's the use" and stays on welfare.

This is a continuing problem. This is the way we should do it, by making this a permanent program, and we hope the economy will be such that we will not have this problem in the future.

Mr. JAVITS. Mr. President, to cite some additional facts, the amendment permits—not mandates—States to pass individual State laws in order to take advantage of it in every one of its aspects. So a State may choose to take advantage of it, but it is perfectly free not to do so. If it chooses to take advantage of it, it will undoubtedly calculate the cost intra the State.

So it is by no means a matter which is taxing on the Federal Government. It is self-financing, and each State has a complete option as to whether it wishes to take advantage of it.

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

Mr. JAVITS. I yield.

Mr. TUNNEY. Is it not a matter of simple justice to those States which have a very substantial amount of unemployment for a long period of time to give them the opportunity to benefit from this emergency program?

Mr. JAVITS. Exactly right.

Mr. TUNNEY. It is just a question of simple justice.

Mr. JAVITS. Exactly right.

In addition, if Senators can justify social security amendments on the debt ceiling bill, they certainly can justify this amendment on the debt ceiling bill, and I hope the Senate will adopt the amendment.

Mr. LONG. Mr. President, I tried to help the Senator from New York and others work out the type of thing they were advocating last year, and we obtained a commitment from the chairman of the Ways and Means Committee. Language of this sort was brought back from the Senate which was regarded as a commitment. This is what it says:

Our understanding is that if California or New York (which would bring in other urbanized States) when we return in January 1973 have an insured unemployment rate in excess of four percent, I would propose to offer and support legislation to bring them into the Federal extended unemployment provision which is contained in the debt ceiling conference report.

That was the debt ceiling conference report of last year. As I understand it, that was a statement subscribed to by the chairman of the Ways and Means Committee and perhaps uttered on the House floor.

I do not think Chairman MILLS—and I know I would not—would want to do anything other than we indicated we would be willing to support; and I would be willing to go along with the Senator if this is what he was talking about. But if we did this, it would not include the State of New York, because the State of New York has an insured unemployment insurance rate of about 3.7 percent.

In order to bring New York into a program of this kind, we would have to add another dimension. We would have to increase the 3.7 by adding other people, and the logical way to increase it would be to count people who have exhausted their unemployment insurance benefits. Of course, if we did that, it would increase the unemployment insurance rate, as we would figure it, in all 50 States, in some States more than others.

That was not what the commitment was. The figures we have been choosing to talk about—in which States we would have extended employment insurance benefits and which States we would not—were the official uninsured unemployment figures, which do not include people who have exhausted their benefits, but only those who are drawing them. Accordingly, the Senator's amendment goes beyond the commitment that was made.

The Senator put a letter in the RECORD. Look at all these States that he says are affected. At a time when prosperity is such that we are having great difficulty with inflation, but we do have a robust, expanding economy, the Senator's amendment would have these extended benefits apply in the following States:

Alaska, Arkansas, California, Connecticut, Hawaii, Idaho, Kentucky, Louisiana, Maine, Massachusetts.

Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Dakota, Oklahoma.

Oregon, Pennsylvania, Puerto Rico, Rhode Island, Utah, Vermont, Washington, West Virginia, Wisconsin.

Imagine, at this time, with unprecedented prosperity, the Senator would have extended unemployment insurance benefits, so that in addition to the 6-month benefits, one would receive 3 additional months of extended benefits. In my judgment, adding in persons who have run out of benefits goes altogether too far. But you have to do that kind of thing if you want the amendment to apply to New York, because the standard we agreed would be appropriated, 4 percent, would apply in California. It would not apply in New York. It would apply in Washington, but not New York. To get New York in, you have an amendment that winds up including most States in the Union, in the extended unemployment insurance benefit program.

The amendment, in my judgment, goes

too far. It would cost $400 million; and, of course, the entire cost would be borne by the employers.

Now the Senator does not have a tax increase in the amendment. I do not complain about a tax amendment being offered. If the Senate wants to agree to this amendment, I will urge the House to accept it.

But this is not what we were talking about last year. Last year, we were talking about 4 percent insured unemployment as the triggering point. If we did exactly what I thought we were talking about last year, we would include a considerable number of States, but we would not include the State of New York or quite a few of the others. There are 13 States which now have an insured unemployment rate exceeding 4 percent.

The list does not include Arkansas. It does not include Louisiana.

Mr. FULBRIGHT. What are the States?

Mr. LONG. Here are the 13 States which now have more than 4 percent insured unemployment: Arkansas, California, Maine, Massachusetts, Montana, Nevada, New Jersey, North Dakota, Oregon, Puerto Rico, Rhode Island, Vermont, and Washington.

Mr. FULBRIGHT. The Senator read Arkansas but he said it was not included.

Mr. LONG. Excuse me. I meant Alaska. Arkansas is not among the 13.

The point is that by a fair standard the Senator's amendment goes too far. I personally would not oppose an amendment that would extend it to these 13 States. I thought that is what we were talking about.

Mr. MAGNUSON. Those figures are interesting but when a man is out of a job and has exhausted his benefits I do not care if it is only 10 States or all 50 States, we should be doing something about it.

Last year the Senator took my amendment to conference. We were including 14 States to 15 States. But now we are talking about a permanent law. When a man is out of a job and has exhausted his benefits it does not matter how many States are involved.

The Senator says the economy is booming. Well, to a fellow out of a job who has exhausted his benefits nothing is booming. He wants to go to work. I wish the economy were booming like the Senator from Louisiana suggests. I am very glad it is booming in Louisiana but that is not true everywhere. There is still great unemployment. We long ago established the principle of an employer unemployment benefit plan. That is all this is.

Speaking of welfare, I am about to call up the HEW appropriation bill. The Senator from New Hampshire (Mr. COTTON) and I are now holding hearings. For every person we do not take care of the total social cost per year is about $4,000. That is a large amount of money per person.

We can pass this program and keep those people off of welfare. In the State of California it is terrible, and the rate is going up instead of down. In other places in the Nation things may be fine.

If there is any way to take care of the man who is unemployed who has exhausted his benefits, I am for it.

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

Mr. LONG. Mr. President, I do not yield for a speech for the amendment on the time against the amendment. It is all right for those against the amendment to use their time but they have 40 minutes, and I have 20 minutes. I do not yield for that purpose.

How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from New York has 20 minutes remaining, and the Senator from Louisiana has 11 minutes remaining.

Mr. LONG. I suggest they use some of their time.

Mr. JAVITS. Mr. President, I yield whatever time the Senator from Washington wants.

Mr. TUNNEY. As I understand the argument of the Senator from Washington, he is saying this amendment will save the Federal Government money. I am referring to the amendment offered by the Senator from New York.

Mr. MAGNUSON. Yes. For these people.

Mr. TUNNEY. For these people.

Mr. MAGNUSON. Of which there are 70,000 in my State.

Mr. TUNNEY. Because if we do not pass this amendment people will be on welfare rather than on unemployment compensation and that will cost the Federal Government more money than if they were on unemployment compensation, so the Senator is trying to save the Federal Government money. This would support the amendment.

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

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I listened with great interest to the argument of the Senator from Louisiana. I had hoped we would not be drawn into an argument about honoring any commitment. I do not propose this amendment to the Senate on any such ground. If the Senator thought he was against it for substantive reasons the commitment is meaningless to him. It would be contrary to the oath of office if someone claimed a commitment. We have individual consciences and duties. As a matter of fact, I do not think Representative MILLS was engaging in fine spun legal theories. What he had in mind was the bill we had sent over there which we did not agree on in conference, which had the 4 percent unemployment concept. We are checking now because the recollection of my assistant is that this very provision respecting exhausted benefits was in that bill. As I say, we are checking.

I have no desire to put this on the basis of a commitment, but on equity. I do not believe this hackneyed argument that New York has to be whipped and 27 other States penalized because New York has to be whipped. I do not believe it is proper debate in the Senate. New York is a respectable State with the second greatest population in the country.

Time and time again I have stood on this floor and fought for little States. It would be a matter of pride to me if New York were ineligible under this. But this is my duty. I am not a Senator of New York in the State legislature; I am a Senator of the United States. So I hope the Senate will pass on this on the merits as a matter of equity.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Certainly. I yield.

Mr. FULBRIGHT. I want to clarify the point of the Senator from Washington. I thought the situation was otherwise and I want a factual answer.

Are the benefits under unemployment insurance in this bill greater or lesser than the benefits of welfare if that person went on welfare? I understood there would be a savings if they stay on unemployment rather than going on welfare. Is that a fact?

Mr. JAVITS. Yes. The reason is this. Welfare is paid by State and Federal Governments out of general revenue; it is a grant. Unemployment compensation is raised by taxation on employers, which is taxation on the individual employer, so there is a greater mutuality and less Government drain.

Mr. FULBRIGHT. How does it save money to give them unemployment? I was under the impression it was the other way around, that it was more on unemployment.

Mr. MAGNUSON. The Senator does not suggest it is cheaper on welfare, does he?

Mr. FULBRIGHT. Yes.

Mr. MAGNUSON. It depends on the State.

Mr. FULBRIGHT. I am not contesting it; I only want the facts. I was under the impression there is no savings in keeping them on unemployment.

Mr. CURTIS. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. Yes. I want the facts. That is all I want.

Mr. JAVITS. Mr. President, I have the floor, with all respect. I had yielded to the Senator from Arkansas and I have not answered the question. If I may do that first I will be happy then to yield to others.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. The point made by the Senator from Washington (Mr. MAGNUSON) relates to the source of the payment.

What he meant is that the Government per se is not taxed. It is not taxpayers' money as we normally understand it; it is taxpayers' money which pays welfare—State and Federal.

On the other hand, unemployment compensation is paid by a tax on specific employers, based on the number of employees they pay.

Mr. FULBRIGHT. What is the difference? It is still a tax.

Mr. JAVITS. The difference is the source of payment. It is not general tax money. It is money raised from specific employers as an element of the fact that they are in business. Those are the facts. I cannot make the facts any different to prove what the Senator from Arkansas wants me to prove. He wants the facts. I am giving him the facts.

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

Mr. JAVITS. I yield.

Mr. RIBICOFF. There is a saving. It is not a question of how the money is raised, whether it is a tax on employers or whether it is from general tax revenues. If the unemployment compensation is $60 a week, let us say, that comes to $3,100 or $3,200 a year. If a person is getting unemployment compensation, he is not eligible to get on the welfare rolls. But, as the Senator from Washington (Mr. MAGNUSON) has pointed out, if he is kicked off the unemployment compensation rolls, he still has to pay rent, and then he has to apply to the welfare department. So the welfare department pays him an average of $4,200 a year, nationwide.

So there is a difference of $1,000 of additional cost on welfare as against what a person would receive on unemployment compensation. So not only are we the losers nationwide, whatever the tax is, of $1,000 a year, but the person who has self-respect, who does not want to go on welfare, is suddenly forced by us to go on welfare, when for years we have said we want them to work, we want to continue the work ethic, we want them to think it is more important to work.

But once we kick him off unemployment compensation, he has no alternative but to go to the Welfare Department to get welfare.

May I add to the remarks of the chairman of the committee, because his sympathies have been with us in the Finance Committee, in executive session, as well as on the floor. The distinguished chairman has always been sympathetic to the Senator from Washington, the Senator from New York, and to me. It is not a question of trying to get that 3.7 percent and bring it up above 4 percent. The Senator from New York is saying we have a formula that is meaningless.

We talk about insured employment. We are talking about people on the unemployment rolls. To the contrary, once one exhausts his unemployment compensation, he is off the rolls and he is no longer added to the list. So, therefore, if in the State of Connecticut, for example, the unemployment rate is 5.3 percent, but 30,000 have exhausted their unemployment benefits, it sinks to 4 percent. So we have a situation where unemployment may be rising, but the insured employment at the same time may be falling.

So what we are trying to do, as a matter of sheer justice and equity, is to recognize that whether it is Louisiana, Connecticut, Rhode Island, or Washington, it is a matter that affects the entire Nation; but even if we are looking at it in cold dollars and cents, we are still thrown back to the argument of the Senator from Washington that welfare costs America more than what is paid in unemployment compensation in this Nation.

That is the point the Senator from New York is here making. It is not a question of whether a commitment was made. I would hope our distinguished chairman would recognize that. He has been with us in this fight over the years. I think the Senator from Louisiana, our chairman, recognizes the time has come to straighten out this complex mess in our unemployment compensation and write a series of rules and regulations that everybody understands—that a U.S. Senator can understand as well as a person who is unemployed can understand. We have not achieved that. I think it is the duty of the Ways and Means Committee of the House and the Finance Committee of the Senate to bring some sense, finally, into the rules and regulations on unemployment compensation. In the interim, now is the time to make the start, and I believe that the Senator from New York has done so with his proposal. I hope Senators will support the amendment by the Senator from New York.

Mr. JAVITS. Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished colleague from New York.

Mr. President, I do not believe the statement can be maintained that welfare costs more than unemployment. There are three reasons for it. The average welfare payment is less than the average unemployment rate.

In the second place, not nearly all people who are eligible to draw unemployment compensation are eligible for welfare. Well-to-do men with savings, some of them executives who have retired, go from their retirement office to draw their unemployment compensation. They share, if they live in the right States, in these extended benefits. There are many others who are eligible to draw unemployment compensation as a matter of right, but who cannot pass the needs test to draw welfare.

So on that account it is not as expensive.

In the third place, unless someone is aged or disabled, the only Federal program in which the Federal Treasury has to pay for unemployment is in those States where the family qualifies for aid to families with dependent children by reason of the father's unemployment, and about half the States do not even participate in such a program.

I realize that late at night on the floor it is hard to establish statistics. That is one reason why this matter should be developed at a hearing. But certainly everything points to the fact that, regardless of the merits, this is not cheaper for the Federal Treasury than handling those cases that can qualify for welfare.

Mr. JAVITS. Mr. President, I am grateful to all my colleagues for elucidating these matters. I now wish to make this statement of fact——

Mr. MAGNUSON. Mr. President, will the Senator yield me half a minute?

Mr. JAVITS. I yield.

Mr. MAGNUSON. I will put all the figures into the record, but when we talk about welfare, that includes the food stamp program, which is several billions of dollars, the rent supplement programs, the surplus commodity programs, job training, economic loss to the community, which is an intangible thing. But those four items can be added to the welfare payments. They are all part of the social cost of the welfare program.

The Senator from Nebraska suggests that some workers are not eligible for welfare if they have exhausted their benefits. I do not know where the man goes then. Where does he go? To the Salvation Army? The soup line? That is not fair. We have to add all of these costs, and I say it adds up to the amount I have suggested. And how about the cost of the administration of welfare? Senators should listen to some of the testimony on that cost. I should include retraining and rehabilitation. All of these items add to the costs of welfare. Of course, passing this amendment is the best way to handle it.

Mr. JAVITS. I thank my colleague.

Mr. President, just for the information of the Senate on the matter of exhaustion of benefits, the amendment as accepted last November or December by the Senator from Louisiana (Mr. LONG) did not contain that provision, but the promise we had was that the matter would be given consideration if we continued to have serious unemployment.

The Senator from California (Mr. TUNNEY) and I introduced a bill containing the exhaustion provision and asked for hearings both from the Senator from Louisiana (Mr. LONG) and Congressman MILLS way back in January 1973, and no action was taken upon those requests. I think again that bears out my statement that Congressman MILLS' statement on the House floor was in no way designed to be extremely technical. He was going to give consideration to this problem.

I would repeat that it would be most unfair, and I am the last who would wish to do that, to base this amendment on some theory of commitment. In my judgment, the inequities here are so strong and justice has been left deferred for so long that this should now be done.

Mr. CHILES. Mr. President, if the Senator will yield, what is the length of the time of the program? What would be the extension of benefits?

Mr. JAVITS. This would be a permanent amendment to the law, to allow this kind of emergency unemployment compensation where benefits have been used up and the rate of unemployment remains high.

Mr. CHILES. This would be a permanent program?

Mr. JAVITS. It would.

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

Mr. LONG. Mr. President, at this time we have an unadjusted total unemployment rate in this country of 4.3 percent. Now, by most standards that is not a high degree of unemployment. And that is a lot less unemployment than we have had in recent years. It was running 5.5 percent last year.

Furthermore, we have one-fourth less insured unemployment than last year. Then we had about 3.2 percent insured unemployment. Now it is 2.4 percent.

So the insured unemployment rate has gone down about one-fourth and the unadjusted total unemployment rate has gone from 5.5 percent to 4.3 percent.

We have had a major reduction in unemployment.

If I had made the Senator a commitment, I would be trying to keep it.

We were talking about the situation where if a State had insured unemployment that exceeded 4 percent, we would make the State eligible for the extended benefits. Now the Senator comes along with something, when we have 4.3 percent total unemployment and only 2.4 percent insured unemployment, and in this entire country we have help wanted signs out all over America. One can draw his unemployment benefits and can turn down a good job and still draw unemployment insurance. If a man has been accustomed to drawing $1,000 a month at skilled labor and he is offered a job paying $400 or $500 a month at unskilled labor, he is privileged to pass up the job. Those people on welfare are passing them up. And the man can pass the job up for 6 month and still draw benefits if he is in a State where it is hard to find a good job.

According to the standards we have in the law, a man can pass up a good job and draw his unemployment insurance benefits until he has exhausted them. Now he could pass up a $500 a month job with help wanted signs hanging all over town, and he can continue to draw his unemployment insurance benefits.

I would be willing to vote for an amendment in line with what I thought the commitment was last year. However, here the Senator tries to bring in an amendment at a time when we have relatively lower unemployment, an amendment he says would make 30 States eligible. We will not only count the people who are insured and unemployed, but we must also count all people who have exhausted their benefits. Why does the Senator not go the rest of the way and help all the States?

If we did that, we could find more people who are unemployed, but not a great many more, because there are not that many unemployed people in the country. I do not think that in this instance we ought to be putting unemployment benefits in the bill for 30 States across the country. But if Senators think we ought to go that far, that is all right. That is going pretty far. It is a question of how far the Senate wants to go. We are going a lot farther than we went last year. Last year New York could have got into the program at the 4 percent insured unemployment rate. Now New York cannot meet that test. If there are people who are willing to make 13 States eligible for the benefits. I for one will go along. I do not think 30 States ought to be put in. But if Senators want to put them in, we will go to the House, and see what the House wants to do about it.

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

Mr. LONG. I yield.

Mr. CHILES. Would there be any inducement if we had this kind of program for workers to move from Florida if there was a layoff in the space program? Would there be any inducement for them to do that? Or would it better for them to stay there so long as the unemployment compensation was there? They could stay right there and continue to draw those benefits.

Mr. LONG. I suppose the same answer would be true under the Javits amendment. The Javits amendment, as I understand, would be permanent. A person would be able to draw benefits for 13 additional weeks. He would be able to draw benefits. There would still be States where they would not draw benefits.

Mr. RIBICOFF. Mr. President, I think that since the Javits amendment is involved, I should say that the Javits proposal extends emergency unemployment benefits for 13 additional weeks. It is not permanent. Twenty-six weeks is the norm. The Javits proposal provides that when unemployment goes above 4 percent, there is an emergency for 13 additional weeks.

This is what we are fighting for; it is not to get a person permanently on the list for 13 additional weeks beyond the first 26.

Mr. JAVITS. I thank the Senator from Connecticut.

What the Senator from Louisiana asked us to do is to stand on our heads, because 4.3 is probably not the figure. These are adjusted figures. They are not comparable figures as to how much unemployment there is. It is about one-half of 1 point. It was 5.5; it is now 4.3. The 4.3 figure is misleading.

Mr. LONG. The applicable figure for last year would be 5.8 percent. It is down 15 percent from last year.

Mr. JAVITS. The way the uninsured employment figures are run is on an adjustment in addition.

Every State has the option, under my amendment, as to whether it will adopt this plan. If it has heavy employment, it will not adopt it. If it does not, it will have the opportunity to do so. Furthermore, not only New York is suffering; many other States have triggered out of the program.

Mr. JAVITS. We hear all this crying on the theory that New York is not over 21. We understand that we are a State just as any other State. We have a problem just as many other States do—20 of them. Are we going to cut off our nose to spite our face because the proposal will help New York? Is that what we are going for?

I submit that it is unthinkable. I do not know what will happen to New York in conference. New York may well be cut out. I cannot anticipate that. All I know is that what we ought to do is to accept the amendment in common justice.

Mr. LONG. Mr. President, I understand what is concerned. Last year I was willing to accept an amendment out here on the floor, to put about 20 more States under extended unemployment insurance benefits. At that time we had a lot more unemployment than we have now. Now the Senator comes up with an amendment where, with a lot less unemployment, he wants to put 30 States into the extended benefits program, and that does not make any sense to me.

Last year, as far as this Senator was concerned, the type of thing he had made a commitment for, or thought he had a commitment for, and that would have been fine. But this is altogether too much.

Mr. JAVITS. May I point out, Mr. President, if I have 1 minute left, that New York was among the States the Senator was willing to take last year, and it is among the States he ought to be taking this year.

Mr. LONG. It was among them last year because they had a lot more unemployment last year. It is that simple.

Mr. ALLEN. Mr. President, may I ask the Senator from Louisiana a question?

Mr. LONG. I yield.

Mr. ALLEN. Would not a person be just as much unemployed if he is in a 3 percent unemployment area as in a 5 percent unemployment area? What is the rationale for the 5 percent breaking point?

Mr. LONG. Of course, even the Javits amendment would leave out about 20 States, so it is just a question of degree. How far do we want to go with it? Up until now, the major test has depended on how extensive the unemployment was in your State, and how hard it was to find a job, in determining whether we would give them another 3 months of employment insurance.

Mr. CASE. Mr. President, I join Senator JAVITS in offering an amendment to the debt ceiling bill to totally eliminate those restrictions which will on June 30 end the payment of extended unemployment compensation benefits.

The Federal-State Extended Unemployment Compensation Act, enacted in 1970, was designed to deal with the then-rapid surge in unemployment that this country was experiencing. Accordingly, it specified that this 13-week extension of unemployment benefits could not be paid unless a State's unemployment rate was sharply increasing—in technical terms, the rate has to be at least 20 percent of the rate prevailing in that State in the 2 previous years.

The present law simply does not apply to, or deal with, the persistent degree of high unemployment that many States are presently experiencing. In fact, the unanticipated effect of the 1970 law has been to end entitlement in those very States where unemployment has leveled off on a high plateau.

In effect, the thousands of jobless exhausting their 26 weeks of State benefits are told that the degree of unemployment does not matter. They are told that they are entitled to extended benefits only if conditions are becoming still worse at an ever-increasing pace.

Now we are paying the price of this oversight in the 1970 law, 29 States, all with unemployment rates high enough otherwise to entitle them to these extended benefits, will lose out strictly because their rates happen to have leveled off. Truly, this represents a cruel "catch-22" logic that I am certain the Congress never intended.

In my own State of New Jersey, unemployment stands at 7.3 percent of the work force—far above the national average and equal to the level of a year ago. Yet on June 30, over 20,000 workers in my State will lose their entitlement to these extended benefits—not because the economic situation has improved but because conditions have not gotten worse at a fast enough pace to satisfy the requirements of existing law. In all, the U.S. Department of Labor estimates that a total of 118,800 unemployed workers in New Jersey will be eligible for these pay-

ments in the year ahead if this restriction is removed.

As in the other 28 States involved, most of these jobless will have no other recourse except to go on the welfare rolls—and this at a time when State and local governments across the country are hard pressed financially. The Federal Government finances 50 percent of the cost of this program of benefits.

In the fall of last year, I and a number of my colleagues managed to have enacted a temporary waiver of this restriction which subsequently enabled the payment of these extended benefits. Unless we act, this waiver will expire on June 30. Once again, I urge my colleagues to rectify this oversight in the present law and support our amendment to strike permanently the "120-percent requirement" of the Federal-State Unemployment Compensation Act of 1970.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS). 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 Michigan (Mr. HART), the Senator from Wyoming (Mr. MCGEE), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "yea."

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

The result was announced—yeas 36, nays 57, as follows:

[No. 249 Leg.]

YEAS—36

Bayh	Hughes	Nelson
Brooke	Humphrey	Pastore
Burdick	Inouye	Pell
Byrd, Robert C.	Jackson	Percy
Case	Javits	Randolph
Cranston	Kennedy	Ribicoff
Eagleton	Magnuson	Schweiker
Gravel	Metcalf	Scott, Pa.
Hartke	Mondale	Stevens
Hatfield	Montoya	Tunney
Hathaway	Moss	Weicker
Hollings	Muskie	Williams

NAYS—57

Aiken	Domenici	Mansfield
Allen	Dominick	Mathias
Baker	Eastland	Nunn
Bartlett	Ervin	Packwood
Beall	Fannin	Pearson
Bellmon	Fong	Proxmire
Bennett	Fulbright	Roth
Bentsen	Griffin	Saxbe
Bible	Gurney	Scott, Va.
Brock	Hansen	Sparkman
Buckley	Haskell	Stafford
Byrd, Harry F., Jr.	Helms	Stevenson
	Hruska	Symington
Cannon	Huddleston	Taft
Chiles	Johnston	Talmadge
Church	Long	Thurmond
Cook	McClellan	Tower
Cotton	McClure	Young
Curtis	McGovern	
Dole	McIntyre	

NOT VOTING—7

Abourezk	Goldwater	Stennis
Biden	Hart	
Clark	McGee	

So Mr. JAVITS' amendment was rejected.

Mr. JAVITS. Mr. President, I send another amendment to the desk for myself and the same cosponsors and ask that it be stated.

The PRESIDING OFFICER (Mr. GRAVEL). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. 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:

TITLE IV—UNEMPLOYMENT COMPENSATION ACT AMENDMENT

SEC. 401. (a) Section 203(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following sentence: "Effective with respect to compensation for weeks of unemployment beginning after the date of the enactment of this sentence (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there had been a State 'on' or 'off' indicator "beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof and as if paragraph (1) of section 203(b) did not contain subparagraph (B) thereof."

Mr. JAVITS. Mr. President, this amendment simply does what we did at the end of last year. It excludes the provision requiring those who have exhausted their regular benefits to be counted in determining the level of insured unemployment.

Mr. LONG. Mr. President, I have said repeatedly that I would be willing to take an amendment in this form, and I am happy to do so now.

I yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back. The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS).

The amendment was agreed to.

Mr. HARTKE. Mr. President, I have an amendment at the desk which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 17, after line 8, insert the following new section:

REPEAL OF EARNINGS TEST

SEC. 215. (a) Subsections (b), (d), (f), (h), (j) and (k) of Section 203 of the Social Security Act are repealed.

(b) Subsection (c) of such section 203 is amended (1) by striking out "Noncovered Work Outside the United States or" in the heading, and (2) by striking out paragraph (1) thereof.

(c) Subsection (e) of such section 203 is amended by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsection (c)".

(d) Subsection (i) of such section 203 is amended by striking out "subsection (b), (c), (g), or (h)" and inserting in lieu thereof "subsection (c) or (g)".

(e) Subsection (1) of such section 203 is amended by striking out "or (h)(1)(A)".

(f) The second sentence of paragraph (1) of subsection (n) of section 202 of the Social Security Act is amended by striking out "Section 203 (b), (c), and (d)" and inserting in lieu thereof "Section 203(c)".

(g) Paragraph (7) of subsection (t) of section 202 of the Social Security Act is amended by striking out "Subsection (b), (c), and (d)" and inserting in lieu thereof "Subsection (c)".

(h) Paragraph (3) of section 203(a) of the Social Security Act is repealed.

(i) The amendments made by the preceding subsections of this section (other than subsection (h)) shall apply only with respect to benefits payable for months beginning after the month in which this Act is enacted, and the amendment made by subsection (h) shall become effective on January 1, 1974.

Mr. HARTKE. Mr. President, this is a very simple amendment. It was adopted by the Senate last year by a vote of 76 to 5. It would increase the earnings limitation from $2,100 to $3,000.

This is probably one of the greatest welfare relief amendments that could ever be presented on the floor of the Senate, because there are many people on welfare today who would not be there if they were given the opportunity to continue to work to earn a living. This is exactly what I propose to do.

I have another amendment at the desk which would repeal the earnings limitation. However, it is impossible at this time to achieve that goal, but we should be able to do in the Senate what we did last year, that is, give these people the opportunity to continue to live in dignity and respect and go ahead and earn a living. This will give them the opportunity to earn up to $3,000 before we start deducting social security benefits from them.

I do not think it is necessary for me to explain the amendment in further detail. It would affect about 7,400,000 people on social security.

I would be glad to explain it further, of course, if any Senator has any difficulty understanding it. But, I say again, all it does is to permit persons who draw social security to earn up to $3,000 before they are forced to have their benefits reduced. At the present time, it is $2,100. The same amendment was offered on the floor of the Senate last year. The vote at that time, as I said, was 76 in favor and 5 opposed.

Mr. President, I ask unanimous consent to add the name of the distinguished former Secretary of HEW, the Senator from Connecticut (Mr. RIBICOFF) as a cosponsor of the amendment.

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

Mr. HARTKE. Mr. President, also the Senator from West Virginia (Mr. RANDOLPH), who has been a leader in this field; also the Senator from Rhode Island (Mr. PASTORE); the Senator from Minnesota (Mr. HUMPHREY); the Senator from Colorado (Mr. DOMINICK); the Senator from Florida (Mr. CHILES); the

Senator from Texas (Mr. BENTSEN); the Senator from Rhode Island (Mr. PELL); the Senator from California (Mr. TUNNEY); the Senator from South Carolina (Mr. HOLLINGS); the Senator from New Jersey (Mr. WILLIAMS); the Senator from New Hampshire (Mr. MCINTYRE); the Senator from Georgia (Mr. NUNN); the Senator from Nevada (Mr. CANNON); the Senator from Illinois (Mr. STEVENSON); the Senator from Minnesota (Mr. MONDALE); the Senator from Alabama (Mr. ALLEN); and the Senator from Indiana (Mr. BAYH); and Mr. President, I further ask unanimous consent that I may add the names of additional cosponsors. [Laughter.]

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

Mr. LONG. Mr. President, I hope the yeas and nays are not ordered and that we will have a vote on this matter soon, as we would probably agree to it.

Several Senators addressed the Chair.

Mr. BENNETT. Mr. President, who has the time?

Mr. LONG. I yield 2 minutes to the Senator from Utah.

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

Mr. BENNETT. Mr. President, I want to make the record clear that by adoption of the Senator's amendment, we will be adding $800 million per year to the cost of social security without covering it with the necessary tax support. Is the Senator aware of that?

Mr. HARTKE. The Senator is exactly right, let me say to him. [Laughter.]

Mr. President, I yield back my time.

Mr. LONG. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Indiana (Mr. HARTKE).

The amendment was agreed to.

Mr. HARTKE. Mr. President, I have another amendment at the desk which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. 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 insert the following new sections:

SEC.—REDUCTION OF CORPORATE INCOME TAX RATE.

(a) REDUCTION OF SURTAX RATE.—Section 11(c) of the Internal Revenue Code of 1954 (relating to surtax) is amended to read as follows:

"(c) SURTAX.—The surtax is equal to 18 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1973.

SEC.—REPEAL OF FOREIGN TAX CREDIT ALLOWED CORPORATIONS.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1954 (relating to taxes of foreign countries and of possessions of the United States) is amended—

(1) by revising subsection (a) to read as follows:

"(a) Allowance of Credit.—In the case of a taxpayer other than a corporation, who chooses to have the benefits of this subpart, the tax imposed by this chapter shall, subject to the applicable limitation of section 904, be credited with the amounts provided in the applicable paragraph of subsection. (b) Such choice for any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year. The credit shall not be allowed against the tax imposed by section 56 (relating to minimum tax for tax preferences).";

(2) by revising subsection (b)(1) to read as follows:

"(1) CITIZENS.—In the case of a citizen of the United States, the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and";

(3) by revising subsection (b)(4) to read as follows:

"(4) NONRESIDENT ALIEN INDIVIDUALS.—In the case of any nonresident alien individual not described in section 876, the amount determined pursuant to section 906; and"; and

(4) by striking out subsections (d) and (e).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 78 of the Internal Revenue Code of 1954 is repealed.

(2) Section 535(b)(1) of such Code is amended by striking out "and income, war profits, and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 275 (a) (4)), accrued during the taxable year or deemed to be paid by a domestic corporation under section 902 (a)(1) or 960 (a)(1)(C) for the taxable year," and by inserting in lieu thereof "accrued during the taxable year,".

(3) Section 545(b)(1) of such Code is amended by striking out "and income, war profits, and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 275(a)(4)), accrued during the taxable year or deemed to be paid by a domestic corporation under section 902(a)(1) or 960(a)(1)(C) for the taxable year," and by inserting in lieu thereof "accrued during the taxable year,".

(4) Section 841 of such Code is repealed.

(5) Section 882 (c) of such Code is amended by striking out paragraph (3).

(6) Section 884 of such Code is amended by striking out paragraph (4).

(7) Section 902 of such Code is repealed.

(8) Section 906 of such Code is amended—

(A) by striking out "and foreign corporations" in the heading thereof;

(B) by striking out in subsection (a) "or a foreign corporation" and "(or deemed, under section 902, paid or accrued during the taxable year)";

(C) by striking out in subsection (b)(3) "or 881 (relating to income of foreign corporations not connected with United States business)"; and

(D) by striking out subsection (b)(4).

(9) Section 904(g) of such Code is repealed.

(10) Section 960 of such Code is repealed.

(11) Section 1503 of such Code is amended to read as follows:

"SEC. 1503. COMPUTATION AND PAYMENT OF TAX.

"In any case in which a consolidated return is made or is required to be made, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under section 1502 prescribed before the last day prescribed by law for the filing of such return."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973.

Mr. HARTKE. Mr. President, this amendment deals with the basic proposition, the part of the bill called affectionately by those in the Senate as the Hartke-Burke bill and in the House as the Burke-Hartke bill. It deals with foreign tax credits. At the present time, there is an annual revenue take of about $32 billion for Federal corporate taxes. Of this, at the present time, there is a loophole which amounts to about $4,500,000,000, as a result of the multinational corporations which are taking jobs away from American workers and exporting them overseas and taking the taxpayers' money to subsidize the exports.

What I propose to do is simply to provide for a shift—not a reduction in taxes and not an increase in taxes—but a shift in the tax burden, to shift it from the domestic corporations and requiring those who are presently having the loophole internationally to pay their fair share.

What happens at the present time is that an individual who is doing business as a corporate entity in the United States is required to pay his taxes on the basis that the deduction for any taxes he pays in the State of Maine or Alabama, say, he is entitled to a tax deduction for that amount, but that same corporation as an international agency or an international subsidiary, which is doing business overseas, say in France, is entitled to take no extra deduction but a tax credit, direct dollar for dollar benefits, for the amount of money they pay the Government of France.

In other words, what e are doing is subsidizing the tax system of a foreign country at the expense of the domestic taxpayers. The tax loophole is about $4½ billion.

Last wee!- in Canada, in order to make their industry more attractive, they reduced the corporate tax rate from 49 percent to 40 percent.

What I propose to do is to reduce the corporate tax rate for American domestic tax corporations from 48 percent to 40 percent so that we will be on a par and have equity and not be outbid for the corporate tax business by Canada.

By going ahead and closing the loophole, there is no loss to the Treasury whatsoever. The net effect would be to do three things: one, to protect American jobs; two, to eliminate the tax loophole; and third, to provide for a domestic corporate incentive.

That is the essence of the measure. It is a very simple amendment, and it is not in any way anti-American. It is the

best pro-American vote a Senator can have.

We had today two announcements—the increase in the amount of our balance-of-payments deficit, the increase in our balance-of-trade deficit. The increase in our balance-of-trade deficit this month is of such significant nature that we had the highest imports in the history of the United States. Commerce Secretary Dent did not even call attention and have a news conference this time as he did in April, when we had one surplus in the last year and a half.

The dollar went to its lowest value in history compared to the mark. Gold went up $4 an ounce.

If Senators are really concerned about this economy, they have to recognize that we cannot have a strong domestic economy if we do not have a strong international economy. We cannot have a strong nation if we have a weak currency. We have a weak currency. There is no question about that.

I think this is a great opportunity to display whether we want to do something about the economy or listen to the press releases.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, will the Senator yield me 2 minutes?

Mr. LONG. First, I should like to speak for a moment.

Mr. President, this amendment would cut the corporate tax rate by 8 points. That would cost the Treasury $7.5 billion. Then the Senator would repeal the foreign tax credit, which, hopefully, would gain to the Treasury $1.4 billion, assuming that all works well. I do not think it would, but let us assume that it does. Assuming that it works out the way the Senator would have it work, that would mean a net loss to the Treasury of $6.1 billion.

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

Mr. LONG. I yield.

Mr. HARTKE. What is the source of those figures? I am using Treasury Department figures.

Mr. LONG. That is the estimate given to us by the joint committee staff. It says that the Treasury would lose $6.1 billion. We have a big deficit as it is.

I do not think it is a safe estimate to say that you are going to gain $1.4 billion when you repeal the foreign tax credit; because when corporations overseas have to pay, let us say, a 50-percent tax rate in Europe, and then you are going to charge them anther 50-percent tax when they get back here, I think that would cause Americans who have investments overseas to get rid of them.

So that instead of bringing back something like $5 billion a year in income earned by investments abroad, you would not be bringing anything back. Americans are not going to try to make money by investing abroad if their combined U.S. and foreign corporate tax is 75 percent, when others investing in the foreign country are only paying 50 percent.

My impression is that the reason many people in the labor movement want the foreign tax credit repealed is that they feel it would stop American investments abroad and liquidate them, and I think it probably would; so that you probably would not save the $1.4. In the long run, you would wipe out American investments abroad.

As bad as our balance-of-payments situation is now, the only favorable point is that we are bringing back something like $5 billion a year in earnings from investments abroad. We would lose that in the long run; because when people have to pay a 75-percent tax in order to earn something abroad—that is allowing just a deduction for the taxes they pay abroad at, say, a 50-percent rate rather than a credit. This causes their overall tax rate to go from approximately 50 percent up to 75 percent, and they would not invest if they have that kind of tax burden.

So by wiping out American earnings and American investments abroad, which I think would happen over a period of time, you would have lost $7.5 billion a year to the Treasury, and you would probably have wiped out the only bright spot we have in our whole unfavorable balance of payments situation.

I know the Senator thinks differently about this, but I think we can agree that the one purpose of this amendment is to keep Americans from making investments abroad. It would do more, it would liquidate the investments there already.

At this point, Mr. President—10:15 at night—I do not think the Senate wants to vote for an amendment that is going to cost the Treasury $6.1 billion, with the Government being in the deficit position it is in now.

Mr. HARTKE. Mr. President, I think this matter ought to be cleared up. I am clearing the air on what the Burke-Hartke bill is about.

Many corporations find themselves at a competitive disadvantage. When John Connally was the Secretary of the Treasury, and still a Democrat, I asked him a very simple question when he was before the Finance Committee. I said:

> Under the present tax laws, is it more advantageous to build a plant in Indiana or in India or any foreign country?

He replied:

> That all depends on the circumstances.

I said:

> Explain all the circumstances, and then tell me the net result.

He said:

> The net result is that the tax law gives a preference to building in a foreign country.

That preference is really exactly 50 percent of the tax liability, because under the present law, the foreign tax credit says that in the case of any amount of money you pay to a foreign government, you do not have to pay any equivalent amount to your domestic government. That means that in the United States if you have a complete $100,000 tax liability and if you pay $100,000 in taxes to France, you do not have to pay anything on what you earned in the United States. But if you are a domestic corporation and you had $100,000 income and you had $100,000 worth of taxes to the State of New York, you would still have to pay on $50,000. That is the unfairness.

All I can say is that when they talk about putting a tax on the export of grain, and the only increase in our exports in the month of May was in food products, and when we look at imports and see that we reached an all-time high, it would make King George happy to see this day, because he wanted to keep the United States an agricultural country and give England all the manufacturing.

We have created the same situation. The manufacture of radios and electronic equipment is done in Japan and Taiwan, and soon will be done in Communist China. They have increased the wage rate in Taiwan 25 percent. It is up to 25 cents an hour, for the same work they used to pay in the United States $2 and $3 an hour. The jobs for the manufacture of the satellite business are being shipped to Japan, I say to the Senator from California. McDonnell-Douglas shipped all their technical information to Japan. All the stuff is coming in from Germany. The dollar keeps on going down. There have been two official devaluations of the dollar, with the third devaluation coming, and gold is at an all time high. We sit serenely around and watch the dissipation of American industry.

Mr. President, this is closing a tax loophole.

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

Mr. HARTKE. I yield.

Mr. PASTORE. Do I correctly understand that the reduction is going to apply to all corporations, regardless of whether they have foreign investments?

Mr. HARTKE. It applies to everything in the domestic scene.

Mr. PASTORE. How are we going to explain it to the personal income taxpayer, if we are not reducing his? The Senator is speculating that if we do this, we are going to get that. If we do not get that, look at what will have been done. The taxes of a corporation would have been reduced but not the tax of an individual. How does the Senator justify that?

Mr. HARTKE. If the Senator wishes to amend the amendment to contain that provision, I will accept it.

Mr. PASTORE. I want the Senator to modify his own amendment. He started this.

Mr. HARTKE. If the Senator wants to give that $4.5 billion to individuals, I will be glad to take that substitute.

I am pointing out the inequity to the domestic corporation. The corporations and manufacturers are paying the penalty.

Mr. PASTORE. I am not hostile to what the Senator is trying to accomplish. It is the way he is trying to do it. I have to go home and explain that I have reduced the taxes of a corporation by 8 percent, and some fellow who is trying to meet the cost of living will say, "What have you done for me?"

What am I going to say to him?

Mr. HARTKE. You say simply you are

going to give this corporation a competitive equality that will provide jobs.

Mr. PASTORE. That is academic. That is not bread and butter.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. HARTKE. Very well. I am ready to vote.

Mr. LONG. Mr. President, this amendment is an amendment for both a major tax increase and a tremendous tax reduction. So far the Senate has not seen fit to add amendments to this bill to raise or reduce taxes. I think it is wise.

We will have an opportunity to consider matters of this sort in connection with the trade bill which the House proposes to get to us by the August recess, and also in connection with the tax reform bill. These measures should be considered on subsequent legislation on tax bills. I hope the Senate decides that we should save this for a tax matter.

Mr. President, I yield back the remainder of my time and I move that the amendment be laid on the table.

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana to lay on the table the amendment of the Senator from Indiana [putting the question].

The motion was agreed to.

Mr. BENNETT. Mr. President, I assume that was the last amendment. I have an amendment at the desk which I ask the clerk to state.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 101 of the Act of October 27, 1972, providing for a temporary increase in the public debt limit for the fiscal year ending June 30, 1973 (Public Law 92–599), is amended by striking out "June 30, 1973" and inserting in lieu thereof November 30, 1973".

Mr. BENNETT. Mr. President, the purpose of this amendment is to strike out everything in the bill except the simple extension of the debt ceiling which was the purpose of the bill in the first place. I do not think we need to discuss it. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BENNETT. I am prepared to yield back the remainder of my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment. 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 South Dakota (Mr. ABOUREZK), the Senator from Michigan (Mr. HART), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 34, nays 57, as follows:

[No. 250 Leg.]

YEAS—34

Aiken	Dole	Packwood
Allen	Domenici	Roth
Baker	Dominick	Saxbe
Bartlett	Eastland	Scott, Pa.
Beall	Fannin	Scott, Va.
Bellmon	Fong	Stafford
Bennett	Griffin	Stevens
Brock	Gurney	Taft
Buckley	Hansen	Thurmond
Cook	Helms	Tower
Cotton	Hruska	
Curtis	McClure	

NAYS—57

Bayh	Hollings	Muskie
Bentsen	Huddleston	Nelson
Bible	Hughes	Nunn
Brooke	Humphrey	Pastore
Burdick	Inouye	Pearson
Byrd, Harry F., Jr.	Jackson	Pell
	Javits	Percy
Byrd, Robert C.	Johnston	Proxmire
Cannon	Long	Randolph
Chiles	Magnuson	Ribicoff
Church	Mansfield	Schweiker
Cranston	Mathias	Sparkman
Eagleton	McClellan	Stevenson
Ervin	McGee	Symington
Fulbright	McGovern	Talmadge
Gravel	McIntyre	Tunney
Hartke	Metcalf	Williams
Haskell	Mondale	Young
Hatfield	Montoya	
Hathaway	Moss	

NOT VOTING—9

Abourezk	Clark	Kennedy
Biden	Goldwater	Stennis
Case	Hart	Weicker

So Mr. BENNETT's amendment was rejected.

The PRESIDING OFFICER. The question now is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. DOMINICK. Mr. President, will a Senator in charge of time give me exactly 2 minutes in the bill?

Mr. LONG. Mr. President, I yield the Senator 2 minutes.

Mr. DOMINICK. Mr. President, I just want to say for the record—not that I think it is going to make any votes change—that I have been here 13 years, but I think we have changed the debt limit once per year and sometimes three times per year. It is like being in a movable foot race—you never get to the end of the line. Every time you get to the debt limit, you extend it or increase it. But at no time have we tried to stay within the debt limit or reduce the debt.

Tonight we have not only extended the debt limit, but incerased it, due to the acumen of this great body in accepting amendments, many of them being good amendments, but by our act we have contradicted what we are trying to do in enacting a debt ceiling. I find it to be something I cannot abide.

Mr. HANSEN. Mr. President, I would like to express my concern for what we have done here today concerning this bill to extend the debt limit of $465 billion beyond its expiration date of June 30. If this bill is not passed and signed by the President by that date, the authorized debt limit will revert back to the permanent level of $400 billion. Therefore, because of the importance of this bill to the stability of our economy, it has been used as a vehicle for attaching numerous amendments which will have to be accepted by the President due to the dire necessity of this bill.

We should stop, however, and look at just what we are doing. In the hearings before the Finance Committee regarding this legislation, Secretary Shultz was once again, as is the custom whenever this matter is debated, cross-examined extensively concerning such topics as phase IV economic controls, trade legislation, social security increases, deficit spending and numerous other matters. At that time he was asked whether or not we should just do away with the necessity for congressional approval of further debt extensions. He was agreeable to such a suggestion. It would be a dreadful error on our part, however, to give up this authority for approving future debt extensions. If this were the case, Congress could go on appropriating funds which the Government does not have. Subsequently, the Treasury would have the authority to issue as much debt as would be necessary to raise the money to pay the bills Congress had approved. It would be a vicious circle, and the debt issued could consequently only be limited through appropriate congressional action to limit spending. Hopefully, Congress will take action in the future to revise its appropriations procedures so that priorities for expenditures are established and appropriations are limited to the revenues available for expenditure. But until that time, this congressional approval of debt limit extensions is our only means of actually controlling overall expenditures.

When the House considered this same measure, instead of extending the debt limit to $485 billion through June 30, 1974, as the administration had requested, it voted only to extend the present debt limit of $465 billion for an additional 5 months. By doing so, it was the opinion of the House Ways and Means Committee, that Government spending would be controlled. The Senate Finance Committee agreed with this reasoning. The committee report states:

After carefully weighing all of these considerations, the committee concluded that its most prudent course was to extend the present $465 billion public debt limitation through November 30 of this year. The committee believes that the present limitation provides the administration with sufficient margin to meet financing needs during this period and that later in this session Congress will be in a better position to provide an appropriate limitation for the remainder of the fiscal year.

As it stands now, the Treasury is going to have to carefully judge its spending in

order to stay within the limitations of this debt ceiling.

But, today we have approved numerous committee amendments which will increase spending this next fiscal year by approximately $606 million. That is the committee estimate, excluding the $3.2 billion additional expenditures for the increased social security benefits. The figures I received today from HEW as to the additional cost of these amendments were somewhat higher.

We have also adopted an expenditure ceiling of $268.7 billion for fiscal year 1974 and imposed stringent controls on the future impoundment of funds. I urge my colleagues to keep in mind, however, that the debt ceiling itself is the overriding law governing Federal expenditures. The President cannot authorize expenditures which will cause this ceiling to be exceeded. To do so would be unlawful.

As I see it, we have acted irresponsibly. On the one hand we have imposed two ceilings—the debt limit itself as well as an overall spending limitation for this coming fiscal year. On the other hand, we have authorized the spending of millions of additional dollars. Therefore, in order to maintain the two restrictions imposed, the President will have no choice but to impound funds.

I am concerned about the actions we have taken here today. Once again I am torn between two decisions. The basic bill is of great importance to the continued ability of our country to pay its bills. Secretary Shultz estimated that if this bill is not passed or if it is vetoed by the President, this country will be able to continue paying its bills for about 1 week. If additional reserves are used, we might last a week and a half. This is a grave situation.

At the same time we have added so many nongermane amendments to this bill that I hestitate to vote for the total package. I have already mentioned that I sympathize with many of the amendments considered by the Finance Committee and voted on today. The poor people and those on fixed incomes are among those hardest hit by inflation. This is true. But by allocating more money to certain segments of our society, we will be taking funds away from other types of expenditures. In other words, we are inviting the President to establish our spending priorities in order to stay within the spending and debt ceilings we have established.

After considering all of the alternatives, therefore, I have decided to support this bill only because of the devastating effects the failure to enact such legislation would have on our country.

Our only hope now appears to lie with the rationale of the House-Senate conference.

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

Mr. BENNETT. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the bill having been yielded back, the question is on passage of the bill. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COTTON. Mr. President, a point of order. All those young men who went down and voted at the desk out of turn caused some of us old fellows to miss our names, so we have to wait until the names are all called. I do not think that is nice.

The rollcall was resumed and concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Michigan (Mr. HART), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Iowa (Mr. CLARK) are 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 Iowa (Mr. CLARK) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 72, nays 19, as follows:

[No. 251 Leg.]

YEAS—72

Aiken	Haskell	Nunn
Baker	Hathaway	Packwood
Bayh	Hollings	Pastore
Beall	Hruska	Pearson
Bennett	Huddleston	Pell
Bentsen	Hughes	Percy
Bible	Humphrey	Proxmire
Brooke	Inouye	Randolph
Burdick	Jackson	Ribicoff
Byrd, Harry F., Jr.	Javits	Roth
Byrd, Robert C.	Johnston	Saxbe
Cannon	Long	Schweiker
Church	Magnuson	Scott, Pa.
Cranston	Mansfield	Sparkman
Curtis	Mathias	Stafford
Dole	McClellan	Stevens
Eagleton	McGee	Stevenson
Eastland	McGovern	Symington
Fong	McIntyre	Taft
Fulbright	Metcalf	Talmadge
Gravel	Mondale	Tunney
Gurney	Montoya	Williams
Hansen	Moss	Young
Hartke	Muskie	
	Nelson	

NAYS—19

Allen	Cotton	Helms
Bartlett	Domenici	McClure
Bellmon	Dominick	Scott, Va.
Brock	Ervin	Thurmond
Buckley	Fannin	Tower
Chiles	Griffin	
Cook	Hatfield	

NOT VOTING—9

Abourezk	Clark	Kennedy
Biden	Goldwater	Stennis
Case	Hart	Weicker

So the bill (H.R. 8410) was passed.

Mr. LONG. Mr. President, I have a series of motions. I move to reconsider the vote by which the bill was passed.

Mr. HARTKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that in the engrossment of the Senate amendments to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, and so forth, designations and cross-references thereto.

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

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to the bill H.R. 8410 and ask for a conference thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. GRAVEL) appointed Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. RIBICOFF, Mr. BENNETT, Mr. CURTIS, and Mr. FANNIN conferees on the part of the Senate.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF RECEIPTS AND DISBURSEMENTS PERTAINING TO THE DISPOSAL OF SURPLUS MILITARY SUPPLIES

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material, and for expenses involving the production of lumber and timber products, for the third quarter, fiscal year 1973 (with an accompanying report). Referred to the Committee on Appropriations.

PROPOSED LEGISLATION FROM DEPARTMENT OF THE AIR FORCE

A letter from the Assistant Secretary of the Air Force, transmitting a draft of proposed legislation to amend section 8376 of title 10, United States Code, to authorize promotion of a reserve commissioned officer to a reserve grade equivalent to the highest grade satisfactorily held while on active duty upon transfer from active duty to a reserve status (with an accompanying paper). Referred to the Committee on Armed Services.

REPORT OF NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Vice President, Public and Government Affairs, National Railroad Passenger Corporation (Amtrak), transmitting, pursuant to law, a report of that Corporation, for the month of May, 1973 (with an accompanying report). Referred to the Committee on Commerce.

REPORT OF U.S. ENVIRONMENTAL PROTECTION AGENCY

A letter from the Acting Administrator, U.S. Environmental Protection Agency, transmitting, pursuant to law, a report relating to water pollution control (with an accompanying report). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution adopted by the Pennsylvania State Mayors Association, relating to the railways of the Nation. Referred to the Committee on Commerce.

A resolution adopted by the Pennsylvania State Mayors Association, relating to the Social Security Administration. Referred to the Committee on Finance.

A resolution adopted by the Common Council of the city of Buffalo, N.Y., praying for the enactment of legislation prohibiting the involvement of American military forces in or over North and South Vietnam, Laos, or Cambodia, without prior authorization from Congress. Ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, without amendment:

S. 1945. A bill to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expand directly for marketing promotion (Rept. No. 93–256).

By Mr. TUNNEY, from the Committee on Commerce, with amendments:

S. 1328. A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California (Rept. No. 93–257.)

By Mr. LONG, from the Committee on Commerce, without amendment:

H.R. 7670. An act to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce (Rept. No. 93–259).

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

S. 1794. A bill to amend section 308 of title 44, United States Code, relating to the disbursing officer, deputy disbursing officer, and certifying officers and employees of the Government Printing Office (Rept. No, 93–260);

S. 1795. A bill to authorize the Public Printer to adopt an official Government Printing Office seal, and to designate employees to administer oaths (Rept. No. 93–261);

S. 1802. A bill relating to certain authority of the Joint Committee on Printing (Rept. No. 93–262);

S. 1904. A bill to amend the Act of August 4, 1950 (64 Stat. 411), to provide salary increases for members of the police force of the Library of Congress (Rept. No. 93–263).

By Mr. McINTYRE, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S.J. Res. 128. Joint resolution to provide for an extension of certain laws relating to the payment of interest on time and saving deposits (Rept. No. 93–264).

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

S. 1884. A bill to permit national banks to invest in agricultural credit corporations (Rept. No. 93–265).

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

S. 1972. A bill to authorize supplemental fiscal year 1973 appropriations for Radio Free Europe and Radio Liberty (Rept. No. 93–266).

REPORT ENTITLED "CRIMINAL LAWS AND PROCEDURES"—REPORT OF A COMMITTEE (S. REPT. NO. 93–258)

Mr. McCLELLAN, from the Committee on the Judiciary, submitted a report, pursuant to Senate Resolution 256, section 7, 92d Congress, second session, entitled "Criminal Laws and Procedures", which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. MAGNUSON, from the Committee on Commerce:

John W. Barnum, of New York, to be Under Secretary of Transportation.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSION OF TIME FOR A COMMITTEE TO FILE ITS REPORT ON S. 356

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs have until midnight, Thursday, June 28, 1973, to file the report on S. 356, a bill to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

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. NUNN (for himself and Mr. TALMADGE):

S. 2081. A bill to amend title IV of the Social Security Act to provide a method of enforcing the support obligations of parents of children who are receiving assistance under such title, and for other purposes. Referred to the Committee on Finance.

By Mr. McINTYRE:

S. 2082. A bill to divorce the businesses of production, refining, and transporting of petroleum products from that of marketing petroleum products. Referred to the Committee on Commerce.

By Mr. CHILES:

S. 2083. A bill to amend the Foreign Assistance Act of 1961, as amended. Referred to the Committee on Foreign Relations.

By Mr. BELLMON:

S. 2084. A bill to amend the Truth in Lending Act to prohibit discrimination on account of sex or marital status. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. RANDOLPH:

S. 2085. A bill to authorize appropriations for the President's Committee on Employment of the Handicapped, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. CHILES:

S. 2086. A bill to require that all political contributions of money in excess of $50 to or for the benefit of candidates for nomination for election, or for election, to Federal office be made by bank check drawn on the account of the person making the contribution, or be accompanied by the name, address, and social security number of the contributor. Referred to the Committee on Rules and Administration.

By Mr. HARTKE:

S. 2087. A bill to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans. Referred to the Committee on Veterans' Affairs.

By Mr. INOUYE:

S. 2088. A bill for the relief of Mr. Kwang Ho Kim. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN (for himself and Mr. TALMADGE):

S. 2081. A bill to amend title IV of the Social Security Act to provide a method of enforcing the support obligations of parents of children who are receiving assistance under such title, and for other purposes. Referred to the Committee on Finance.

CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

Mr. NUNN. Mr. President, the program of aid to families with dependent children was designed by Congress with the very noble goal of helping children. It was not intended to replace the father as the principal source of support for his children. Yet this is largely what has happened.

THE PROBLEM

Aid to families with dependent children—AFDC—offers welfare payments to families in which the father is dead, absent, disabled or, at the State's option, unemployed. Although the rolls with respect to all these categories have increased over the years, it is in those families in which the father is "absent from the home" that the most substantial growth has occurred. In 1967, 3.5 million persons were receiving AFDC, because the father was absent from the home; by the end of 1971 that figure had grown to 8.1 million. Thus, in just those 4 years, families with absent fathers contributed more than 4.5 million additional recipients to the AFDC rolls. Based on the finding in a 1971 study, of the 8 million recipients in families with an absent father, over 3 million today are found in families where the father is not married to the mother.

Today, I am introducing a bill which is designed to deal with this problem. Many of the provisions of this bill were developed through the research and hearings of the Senate Finance Committee and I, as the author of this bill, am particularly grateful for the contributions of Senator TALMADGE, and the other members and staff of the Finance Committee.

PRESENT LAW

The Congress has long been aware of the impact of deserting fathers on the

rapid and uncontrolled growth of families on AFDC. As early as 1950, it provided for the prompt notice to law enforcement officials of the furnishing of AFDC with respect to a child that had been deserted or abandoned.

In 1967, the Congress adopted what should and could have been an effective program of enforcement of child support and determination of paternity. The 1967 Social Security Amendments require that the State welfare agency establish a separate, identifiable unit whose purpose would be to undertake to establish the paternity of each child receiving welfare who was born out of wedlock, and to secure support for him. The welfare agency is also required to secure support from the deserting parents by utilizing reciprocal arrangements with other States and by entering into cooperative arrangements with the courts and with law enforcement officials. Access is authorized to social security and to Internal Revenue Service records for data to locate deserting parents. The effectiveness of these provisions of present law has been severely weakened, however, by indifferent administration.

FAILURE TO ENFORCE CHILD SUPPORT

Certain myths have grown up about the difficulty of locating absent parents and their inability to provide support when located. A 1971 research report disputes these myths about absent fathers that inhibit enforcement of support obligations. The fathers, the researchers report:

> Have not disappeared. Usually they were living in the same county as their children. They are not supporting many other children. Ninety-two percent of the nonsupporting fathers had a total of three or fewer children.

The researchers point out that some of the fathers were quite well off, and their families had applied for welfare because of insufficient mechanisms for enforcement of obligations to support. Many of the fathers involved were successful doctors and lawyers.

In its March 13, 1972, study of current child support programs in four States, the General Accounting Office noted that the Department of Health, Education, and Welfare has not monitored the States' child support enforcement activities and had not required the States to report on the status or progress of the activities. Consequently, HEW regional offices did not have information on the number of absent parents or amount of child support collections involved, or the progress and problems being experienced by the States in collecting child support. Also, HEW regional offiials have not emphasized child support collection activities within the total welfare program.

Mr. President, today I am introducing a bill largely incorporating the principal provisions of legislation which was approved by the Senate last year with respect to child support and establishment of paternity. I am firmly convinced that this is one of the most important aspects of the unfinished business of welfare reform.

My bill adopts a three-pronged approach to insure that wherever possible, parental support—not Government welfare payments—will be supplied to AFDC children who have been deserted. Each element is equally important if a truly meaningful program is to be established. First, the father has to be located. To help find him, the bill provides for effective programs of location, particularly within the State, since it has been shown that the great majority of absent fathers never leave their home State. For the more difficult cases and the cases where the father has fled to other jurisdictions, tracing the parent will be facilitated through the expanded use of Federal records.

Second, when paternity is in question, the bill requires that paternity be established and that States have effective programs to this end. My bill includes strong incentives for the States to take whatever steps are necessary including changes in their paternity statutes to establish effective procedures for determining paternity. In addition, the bill would back up this requirement by making Federal blood-typing laboratories available to State courts which could supply scientific evidence for such proceedings.

Third, the bill requires that the States and localities initiate effective systems of support collection against deserting parents. To provide a systematic method to obtain child support, the bill requires that an abandoned mother assign her support rights to the Government and cooperate in the enforcement process as conditions of AFDC eligibility.

This is the three-pronged proposal—location, establishment of paternity, and enforcement of the support obligation. The results anticipated are also threefold. It will help reduce the welfare rolls both in numbers of recipients and the amounts of expenditures by having the parents rather than the taxpayers bear the burden of supporting their children. It should be an affirmative force in preventing family breakup, since, with the establishment of an effective support collection and location system, fathers will be deterred from deserting their families to welfare and children will be spared the traumatic effects of family breakup. It affirms the fundamental principles that all children have the right to know who their parents are, to support by their parents, and to enjoy all the other rights and privileges which are based on this relationship.

DESCRIPTION OF BILL

Since most States have not implemented the present law relating to child support and establishment of paternity in a meaningful way, I am proposing new and stronger legislative action in this area which will create a mechanism under the Attorney General to both encourage and require compliance with the law.

The provisions of the bill will be available to families, generally, regardless of welfare status, to prevent all those who are victimized by deserting fathers from becoming pathetic applicants for public assistance.

ASSIGNMENT OF SUPPORT PAYMENTS

The bill requires that a mother, as a condition of eligibility for welfare, assign her right to support payments to the Government and requires her to cooperate in identifying and locating the father and in securing support payments from him.

The assignment of family support rights would initially be to the Federal Government and would constitute an obligation owed to the United States by the absent parent. However, the Attorney General would delegate the enforcement of the support obligations assigned to him to those States which he finds to have efficient and effective programs of establishing paternity and enforcing child support.

The Attorney General would also be authorized to delegate the enforcement of support obligations to political subdivisions which have effective programs, even though the State as a whole does not.

If the Attorney General retains the assigned support rights, they could be enforced by Federal attorneys in either State or Federal courts. The bill would provide that OEO lawyers would be made available to assist Justice Department attorneys in carrying out their responsibility.

The Attorney General, whether acting on his own behalf or at the request of a State or local subdivision, may make certification to the Secretary of the Treasury for collection by the Internal Revenue Service of the amount of the obligation owed.

Where the Federal Government retains the assigned support rights, because there is no effective program in the State or political subdivision, the full amount of moneys collected would be retained by the Federal Government after the current needs of the family—as determined under a court order—have been met. Moreover, Federal AFDC payments to the State would be reduced by the amount by which these collections of support decrease the State's welfare costs.

The bill also provides that in States which do have effective programs, the Federal share for State expenses under such programs would be increased from 50 to 75 percent.

The bill provides that the Attorney General would, in effect, have to be reimbursed for 25 percent of any Federal costs—other than blood-typing tests—incurred to aid the States and localities in their support collection and determination of paternity efforts.

The January 1974 effective date means that of necessity the Attorney General will have to provisionally approve the existing support collection programs whose effectiveness has not been thoroughly studied. These studies, however, will be pursued as expeditiously as possible and determinations of effectiveness should not be unduly delayed.

LOCATING A DESERTING PARENT: ACCESS TO RECORDS

The bill requires the Attorney General to establish a parent locator service within the Department of Justice which will make available the most recent address and place of employment that can be obtained from Justice Department files or any other Federal agency, or of any State. Priority in requests will be given to locating deserting fathers of

families on welfare. But this service would also be available on a fee basis for locating other deserting fathers.

As a further aid in location efforts, the bill provides a clarification of existing AFDC law restricting the use and disclosure of information. This provision in current law was designed to prevent harassment of welfare recipients. The bill makes it clear that this requirement may not be used to prevent a court, prosecuting attorney, tax authority, law enforcement officer, legislative body, or other public official from obtaining information required in connection with his official duties such as obtaining support payments or prosecuting fraud or other criminal or civil violations.

INCENTIVES FOR LOCALITIES TO COLLECT SUPPORT PAYMENTS

As under present law, when a State or locality collects support payments owed by a father, the Federal Government would be reimbursed for its share of the cost of welfare payments to the family of the father.

As an incentive for the development of effective support programs, however, the bill provides that out of the Federal share, a total of 25 percent of the amount collected by the political subdivisions carrying out the actual location, collection, and determination of paternity procedures will be distributed to them.

CIVIL ACTION TO OBTAIN SUPPORT PAYMENTS

States can enforce the assigned support rights through applicable judicial and administrative arrangements. Also, as agents of the Federal Government, they would be able to utilize, through the Attorney General, all the enforcement and collection mechanisms available to the Federal Government, including the use of the Internal Revenue Service collection procedures. However, States must be diligent in enforcing support rights, and they will have to make reasonable efforts in utilizing their own collection mechanisms before the use of the Federal collection facilities would be authorized.

DISTRIBUTION OF COLLECTIONS

Forty percent of the first $50 of any support collected in a month will go to the family without causing any reduction in the AFDC payment. The remainder will be used to offset or reduce the AFDC payment to the family for the month. If the support payment is sufficient to entirely offset the family's AFDC eligibility for the month, the entire support payment up to the amount of the family's support needs under a court order will go to the family and any excess would be divided, in accordance with the matching formula, between the State and the Federal Government to repay past assistance.

OBLIGATION OF DESERTING PARENT TO FEDERAL GOVERNMENT

Under the bill, the support rights assigned to the Federal Government constitute an obligation of the absent parent to the United States. The obligation would generally be the amount of support specified in a court order. In the absence of a court order, the obligation would be based on the lesser of the welfare assistance paid the family, or 50 percent of the absent spouse's income—but not less than $50 a month. Any support payments made would reduce his obligation. The unpaid part of the obligation would accrue interest at the rate of 6 percent.

All or part of the obligation to the Federal Government might be suspended or forgiven by the Attorney General upon a finding of good cause.

DESERTION: CRIMINAL OFFENSE

The bill provides Federal criminal penalties for an absent parent who has not fulfilled his obligation to support an AFDC family. His obligation to support would be determined by applying State law. The sanctions for failure to support could include a penalty of 50 percent of the amount owned or a fine of up to $1,000 or imprisonment for up to 1 year, or a combination of these. This Federal statute would not supersede State, civil, or criminal laws concerning nonsupport.

DETERMINING PATERNITY

I am deeply concerned at the extent to which the dependency on AFDC is a result of the increasing number of children for whom parental support is not being provided because the identity of the father has not been determined. An AFDC child has a right to have its paternity ascertained in a fair and efficient manner even though this may, in some cases, conflict with what a social worker may consider the mother's short-term interests. The child's right to support and inheritance, and simply to know who his father is, however, deserves the high social priority and the bill recognizes the interest primarily at stake in the paternity action to be that of the child who cannot act on his own behalf.

COOPERATION OF MOTHER

My bill recognizes that one of the most essential factors in obtaining support from the father has to be the cooperation of the mother. Accordingly the bill makes it a condition of eligibility for AFDC that she cooperate in identifying the father and obtaining support. More importantly, however, the bill makes it in her interest to cooperate by assuring that she will always be better off if support payments are made. Under current law, a woman has no incentive to help the Welfare Department get support from the father, because any support payment simply reduces the AFDC payment dollar-for-dollar. Under my bill, this situation would be changed. Forty percent of the first $50 of the support payments collected each month would not reduce the AFDC grant, but would rather stay with the family.

BLOOD GROUPING LABORATORIES

There is much evidence to indicate that expertly conducted blood tests can be of much value to juries in determining paternity. Not only can an individual be excluded from possibility as a father on the basis of blood tests, but also through sophisticated blood tests and expert testimony, the probability of his being the father can be computed and where permitted by law considered along with other evidence by the jury.

The Uniform Act on Blood Tests would allow blood typing evidence to be established even if an exclusion is not established. I wish to emphasize that this bill does not seek to change the court's rules of evidence, but it will make proper testing facilities available to the courts to the extent that blood tests are admissible evidence.

Blood grouping tests must be conducted expertly in order to avoid error; but the possibility of error can be all but eliminated if appropriate procedures are followed by experts. However, sufficient facilities to perform expert blood typing are not currently available to the courts. Therefore, the bill provides that the Department of Health, Education, and Welfare be authorized and directed to establish or arrange for regional laboratories that can perform this highly sophisticated blood typing work.

The services of the laboratories with respect to any paternity proceeding would be provided to courts and governmental collection agencies without cost with respect to any paternity proceeding.

LEADERSHIP ROLE OF JUSTICE DEPARTMENT

The Attorney General would have primary responsibility for the overall direction and operation of the programs established by this bill. He will assess the effectiveness of the State and local programs and based on this assessment will determine which level of government will carry out these activities. To coordinate and lead efforts to obtain child support payments, the bill would require each U.S. attorney to designate an assistant who would assist and maintain liaison with the States in their support collection efforts and would undertake Federal action as necessary. The bill would require the States and political subdivisions to keep full records of their collections and disbursements and to provide such other information as will enable the Attorney General to evaluate the effectiveness of their programs.

WAGES OF FEDERAL EMPLOYEES

At present time, the pay of Federal employees is not subject to attachment for purpose of enforcing court orders, including orders for child support or alimony. The bill would specifically provide that the wages of Federal employees, including military personnel, would be subject to garnishment or other legal process in support and alimony cases whether or not the family in question is on the welfare rolls. In addition, annuities and other payments under Federal programs in which entitlement is based on employment would also be subject to attachment for support and alimony payments. This provision would also take precedence over provisions in various social insurance or retirement statutes which prohibit attachment, garnishment, or other legal process.

CHILD SUPPORT SERVICES FOR FAMILIES NOT ON WELFARE

All of the bill's child support and paternity determination services would also be available to nonwelfare families. The Attorney General—or his State or local delegate—would impose an application fee for such services and any costs in ex-

cess of this fee would be paid by the individual requesting the services by deduction from the amount of any recovery made.

COSTS AND BENEFITS

Mr. President, I am convinced that if this bill is enacted the additional costs of obtaining child support will be more than offset by welfare savings. Some of these savings will be measurable as a result of the increased support payments offsetting AFDC grants. But more important will be the invisible but very real savings which will result in fewer families going on welfare in the first place. And this bill can make that happen by making it clear that the day has passed in this country when men or women can abandon their families to welfare without facing any substantial fear of being held responsible for the support of their children.

This, then, can represent a big step on the road to true welfare reform. But I want to emphasize very strongly that the biggest beneficiaries of this bill are some of the country's most neglected children who have been wantonly deprived of their rightful support by their deserting fathers—aided and abetted by the existing welfare system. Under the present system less than half a million AFDC families are actually getting any support from their absent parents, instead of the 2.3 million families which should be getting such support. If this bill succeeded in getting support payments from just half of the absent fathers who are now contributing nothing and if these payments were only $50 per month, it would represent more than half a billion dollars annually in support payments, and because of the incentive disregard provisions, AFDC families would enjoy increased incomes totaling more than $200 million per year.

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

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

S. 2081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Social Security Act is amended by adding after part C of title IV thereof the following new part:

"PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

"APPROPRIATION

"SEC. 451. For the purpose of enforcing the support obligations owed by absent parents to children receiving assistance under part A of this title and the criminal penalties for nonsupport against absent parents, there is hereby authorized to be appropriated to the Attorney General for each fiscal year a sum sufficient to carry out the purposes of this part.

"DUTIES OF THE ATTORNEY GENERAL

"SEC. 452. (a) The Attorney General shall enforce the support rights assigned to him under section 402 (a) (26) by applicants for and recipients of assistance under part A of this title, utilizing all funds and authority which are available to him for this purpose. To the extent required he shall locate absent parents, determine paternity in order to establish duty to support, obtain support orders, collect support payments by use of voluntary or administrative arrangements or other means, and enforce the criminal provisions for nonsupport by such parents.

"(b) (1) The Attorney General shall, in accordance with procedures applicable to the recovery of obligations due the United States, including, where appropriate, the use of voluntary or administrative arrangements, and in accordance with the priorities for distribution specified in section 455, collect and distribute amounts from enforcement of obligations under paragraph (2). Whenever any individual is determined to be liable to the United States for any amount under this section, the Attorney General may make certification of such amount to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. The Attorney General shall reimburse the Secretary of the Treasury for any costs involved.

"(2) The Attorney General is authorized to bring civil action in any court of competent jurisdiction (including the courts in any State or political subdivision thereof) against an absent parent to secure support obligations as defined in section 457, except that all or part of such obligation may be suspended or forgiven by the Attorney General upon a finding of good cause.

"(3) The Attorney General may make voluntary or administrative arrangements to recover support obligations assigned under section 402(a) (26), if there is no court order in effect directing payment of such obligation or if there is such an order in effect but there is no reasonable expectation that it can be enforced or that the obligation can be collected. Any voluntary or administrative arrangement so made shall provide that support payments will not cease if the family ceases to receive assistance under part A of this title, and the amounts payable under such arrangement, if there is no court order in effect, may be collected as authorized under the provisions of this part.

"(c) The Attorney General and the Director of the Office of Economic Opportunity are directed to enter into an appropriate arrangement under which the services of attorneys participating in legal services programs established pursuant to section 222(a) (3) of the Economic Opportunity Act of 1964 will be made available to the Attorney General to assist him in carrying out his functions under this part. The Attorney General shall, to the maximum extent feasible, utilize the services of such attorneys in the performance of such functions and may make the services of such attorneys available to States or political subdivisions to assist them in carrying out the purposes of this part. The Office of Economic Opportunity shall be reimbursed by the Attorney General for the costs incurred in providing such services.

"(d) The Attorney General shall require that each United States attorney designate an assistant United States attorney to be responsible for enforcement of the provisions of this part in his judicial district and maintain liaison with and assist the States and political subdivisions thereof in their child support efforts. Each assistant United States attorney so designated shall prepare and submit to the Attorney General for submission to the Congress quarterly reports on all activities undertaken pursuant to this section.

"(e) (1) There is hereby established in the Treasury a revolving fund to be known as the Federal Child Support Fund (hereinafter referred to as the 'fund') which shall be available to the Attorney General without fiscal year limitation, to enable him to carry out his responsibilities under this part.

"(2) Except as provided in sections 454 (d) and 458, all moneys appropriated pursuant to section 451 for the purpose of funding Federal activities under this part and all moneys collected by the Federal Government pursuant to this part (including support payments and payments by way of reimbursement received from Federal agencies, States and political subdivisions thereof, and individuals) shall be paid into the fund and shall be disbursed by the Attorney General from time to time in accordance with the provisions of this part.

"(3) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding section shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(f) The Attorney General shall notify the Secretary of the failure of the State agency administering the plan approved under part A of this title to comply with the requirements of section 402(a) (25).

"(g) The Attorney General shall maintain complete records of all amounts collected under this part and of the costs incurred in collecting such amounts and shall, not later than June 30 of each year (commencing with June 30, 1974), submit to the Congress a report on all activities undertaken pursuant to the provisions of this part.

"PARENT LOCATOR SERVICE

"SEC. 453. (a) The Attorney General shall establish and conduct, within the Department of Justice, a Parent Locator Service which shall be used to obtain and transmit to any authorized person (as defined in subsection (c)) information as to the whereabouts of any absent parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.

"(b) Upon request, filed in accordance with subsection (d) of any authorized person (as defined in subsection (c)) for the most recent address and place of employment of any individual, the Attorney General shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

"(1) is contained in any files or records maintained by the Attorney General or by the Department of Justice; or

"(2) is not contained in such files or records, but can be obtained by the Attorney General, under the authority conferred by subsection (e), from any other department, agency, or instrumentality, of the United States or of any State.

The Attorney General shall give priority to requests made by any authorized person described in subsection (c) (1).

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

"(1) any agent or attorney of the United States or of any State or any political subdivision to which support collection functions have been delegated under section 454, who has the duty or authority to seek to recover any amounts under section 452;

"(2) the court which has authority to issue an order against an absent parent for the support and maintenance of a child, or any agent of such court; and

"(3) the parent, guardian, attorney, or agent of a child (other than a child receiving aid under part A of this title) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

"(d) A request for information under this section shall be filed in such manner and form as the Attorney General shall by regulation prescribe and shall be accompanied or

supported by such documents as the Attorney General may determine to be necessary.

"(e)(1) Whenever the Attorney General receives a request submitted under subsection (b) which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c), he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

"(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Attorney General for information authorized to be provided by the Attorney General under this section, such individual 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 requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the Attorney General; and, if such search fails to disclose the information requested, such individual shall immediately so notify the Attorney General. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Attorney General shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c)(3), a fee shall be charged such individual. The fee so charged shall be deposited in the fund and shall be used to reimburse the Attorney General or his delegate for the expense of providing such services.

"(f) The Attorney General, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering or supervising the administration of State plans approved under part A of this title, under which the offices operated under such plans will accept from parents, guardians, or agents of a child described in subsection (c)(3) and transmit to the Attorney General requests for information with regard to the whereabouts of absent parents and will otherwise cooperate with the Attorney General in carrying out the purposes of this section.

"DELEGATION OF SUPPORT COLLECTION FUNCTIONS TO STATES OR POLITICAL SUBDIVISIONS

"SEC. 454. (a)(1) The Attorney General shall delegate to any State having a plan approved under part A of this title the authority to enforce the child support rights assigned to the United States under section 402(a)(26) if he determines that such State has an effective program (in accordance with the standards established in subsection (b)) for locating absent parents, determining paternity, obtaining support orders, and collecting amounts of money owed by parents for the support and maintenance of their child or children. Such a delegation may be made to a political subdivision of any such State upon a finding that the State as a whole does not have an effective program for locating absent parents, determining paternity, obtaining support orders, and collecting child support but that such political subdivision does have an effective program which meets the standards established in subsection (b).

"(2) The Attorney General may determine that a State which delegates to its political subdivisions all or a substantial portion of the administration of the program for locating absent parents, determining paternity, obtaining support orders, and collecting child support, has an effective program although such program is found not to be effective with respect to one or more of such political subdivisions. In any such case, a delegation of authority to the State under the first paragraph of this subsection shall be effective only with respect to those political subdivisions determined to have effective programs (in accordance with the standards established in subsection (b)).

"(b) The Attorney General shall not approve any program pursuant to subsection (a) unless such program provides—

"(1) that such State or political subdivision will undertake—

"(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child, and

"(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support, and

"(2) for the establishment of an organizational unit in the State or political subdivision administering the program under this section;

"(3) for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the State or political subdivision administering the program under this section, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the State or political subdivision administering the program under this section;

"(4) that the State or political subdivison will establish a service to locate absent parents utilizing—

"(A) all sources of information and available records; and

"(B) the Parent Locator Service in the Department of Justice;

"(5) that the State or political subdivision will, in accordance with standards prescribed by the Attorney General, cooperate with the State or political subdivision of another State or with the Attorney General in administering a program under this part—

"(A) in establishing paternity, if necessary,

"(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under this part in another State,

"(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

"(D) in carrying out other functions required by this part;

"(6) that the State or political subdivision may make voluntary or administrative arrangements to recover child support obligations delegated under subsection (a), if there is no court order in effect directing payment of such obligation or if there is no reasonable expectation that such court order can be enforced or that the obligation can be collected. Any voluntary or administrative arrangement so made shall provide that support payments will not cease if the family ceases to receive assistance under part A of this title, and the amounts payable under such arrangement, if there is no court order in effect, may be collected as authorized under the provisions of this part;

"(7) that the State or political subdivision require, as a condition of the absent parent being permitted to make support payments under a voluntary or administrative arrangement, consent by such parent to the entry of a judgment by an appropriate court in which judgment such parent shall be found to be the parent of such child or children;

"(8) that, if the State uses voluntary or administrative arrangements under paragraph (6), such State will establish by law a mechanism for enforcing such arrangements;

"(9) that such State or political subdivision will comply with such other requirements as the Attorney General determines to be necessary to the establishment of an effective program for locating absent parents, determining paternity, obtaining support orders, and collecting support payments including, but not limited to, requiring a full record of collections and disbursements; and

"(10) that the State or political subdivision shall reimburse the Attorney General for the costs incurred by the Federal Government in enforcing and collecting support obligations assigned under this section.

"(c) The Attorney General shall, upon the request of any State or political subdivision to which he has delegated the authority to enforce the support rights assigned to the United States under section 402(a)(26), make available to such State or political subdivision (1) the services of attorneys participating in legal services programs who are, by reason of the agreement required by section 452(c), assisting the Attorney General in carrying out his functions under this part, and (2) upon a showing by the State or political subdivision that such State or political subdivision made diligent and reasonable efforts in utilizing its own collection mechanisms, the collection facilities of the Department of the Treasury (subject to the same requirements of certification by the Attorney General imposed by section 452(b) and subject to such limitations on the frequency of making such certification as may be imposed by the Attorney General).

"(d) From the sums appropriated therefor, the Attorney General shall pay to each State or political subdivision which has a program approved under this section, for each quarter, beginning with the quarter commencing January 1, 1974, an amount equal to 75 percent of the total amounts expended by such State or political subdivision during such quarter for the operation of the program approved under this section except as provided in sections 456 and 459.

"DISTRIBUTION OF PROCEEDS FROM SUPPORT COLLECTION

"SEC. 455. (a) Amounts collected as support obligations as defined in section 457 shall be distributed in the following order of priority—

"(1) If a State or its agents makes the collection, the proceeds of such collection shall be distributed, beginning with the first dollar, as follows—

"(A) the family shall be paid the larger of—

"(i) 100 percent of such proceeds if they are equal to or less than the amount of the assistance payment which would otherwise be made, or

"(ii) an amount of such proceeds that is equal to the lesser of (I) the amount required by a court order to be paid for child support or (II) the amount agreed upon by the parties under a voluntary or administrative arrangement; and

"(B) such amounts as may be necessary to reimburse the State for assistance payments (with appropriate reimbursement of the Federal Government for deposit into the fund and of any political subdivision to the extent of their participation in the financing) made to the family prior to the date on which the support obligation was collected shall be paid to such State.

"(2) If a political subdivision or its agent makes the collection, the proceeds of such collection shall be distributed, beginning with the first dollar, as follows—

"(A) the family shall be paid the larger of—

"(i) 100 percent of such proceeds if they are equal to or less than the amount of the assistance payment which would otherwise be made, or

"(ii) an amount of such proceeds that is equal to the lesser of (I) the amount required by a court order to be paid for child support or (II) the amount agreed upon by the parties under voluntary or administrative arrangement; and

"(B) such amounts as may be necessary to reimburse the political subdivision for assistance payments (with payment to the Federal Government for deposit into the fund of the total amount by which such reimbursement exceeds the share of such reimbursed assistance payments the cost of which were borne by the political subdivision) made to the family prior to the date on which the support obligation was collected shall be paid to such political subdivision.

"(3) If the Attorney General makes the collection, the proceeds of such collection shall be distributed, beginning with the first dollar, as follows—

"(A) the family shall be paid the larger of—

"(i) 100 percent of such proceeds if they are equal to or less than the amount of the assistance payment which would otherwise be made, or

"(ii) an amount of such proceeds that is equal to the lesser of (I) the amount required by a court order to be paid for child support or (II) the amount agreed upon by the parties under a voluntary or administrative arrangement; and

"(B) such amounts as may be necessary to repay past assistance payments shall be paid to the Federal Government and deposited in the fund.

Whenever payments are made pursuant to paragraph (2)(A) or (3)(A) to a family residing in a State which does not have an approved support program under this part (or to a family residing in a political subdivision which is found under section 454(a)(2) not to have an effective program), the Attorney General shall so certify to the Secretary, who shall reduce the amount of any grant made to such State under part A of this title by an amount equal to the amount so certified and deposit such amount into the fund, except that such reduction shall not be greater than the non-Federal share of the amount of the assistance payment such family would have received from such State had the payment under paragraph (2)(A) or (3)(A) not been made reduced by that portion of such non-Federal share which was paid by a political subdivision making the collection under paragraph (2)(A).

"(b) Whenever a family for whom support payments have been collected and distributed under this part ceases to receive assistance under part A of this title, the Attorney General, or the State or political subdivision to which the Attorney General has delegated the authority to collect support obligations pursuant to this part, shall—

"(1) continue to collect such support payments from the absent parent for a period of three months from the month following the month in which such family ceased to receive assistance under part A of this title, and pay all amounts so collected to the family; and

"(2) at the end of such three-month period, if the Attorney General is authorized to do so by the individual on whose behalf the collection will be made, continue to collect such support payments from the absent parent and pay the net amount of any amount so collected to the family after deducting any costs incurred in making the collection from the amount of recovery made.

"INCENTIVE PAYMENT TO STATES AND LOCALITIES

"SEC. 456. When a political subdivision of a State or one State acting as the agent of the Attorney General or another State makes the enforcement and collection of the support rights assigned under section 402(a)(26) (either within or outside of such State, and whether as the agent of such State or as the agent of the Attorney General), an amount equal to 25 percent of any amount collected and required to be distributed as provided in sections 455(a)(1) (A) and (B), or in sections 455(a)(2) (A) and (B), as appropriate, to reduce, eliminate, or repay assistance payments, shall be paid to such State or political subdivision from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent, except that where more than one jurisdiction is involved in such enforcement or collection, such 25 percent shall be allocated among the jurisdictions in a manner to be prescribed by the Attorney General.

"SUPPORT OBLIGATION

"SEC. 457. (a) The support rights assigned to the United States under section 402(a)(26) shall constitute an obligation owed to the United States by the individual responsible for providing such support. Such obligation may be collected directly by the United States or may be delegated for collection to States and political subdivisions as provided in this part and amounts collected by the United States, States, or political subdivisions shall be distributed pursuant to section 455.

"(b) Whenever the support rights assigned to the United States are delegated to a State or political subdivision, the obligation to the United States based upon such support rights shall be deemed for collection purposes to be a debt owed to such State or political subdivision which shall be collectible under all applicable State and local processes.

"(c) The amount of such obligation shall be (1) the amount specified in a court order for support as being the individual's obligation for support of the members of the family, or (2) if there is no court support order, an amount equal to the total amounts of payments which have been or would, in the absence of any support payments collected from such individual under this part, be made on behalf of the children of an absent parent and their caretaker each month under the State plan approved under part A of this title, or, if less, 50 percent of the monthly income of the absent parent for each such month (but not less than $50 per month).

"(d) Any amounts collected from an absent parent under this part shall—

"(1) reduce, dollar for dollar, the amount of his obligation under subsections (a) and (c); and

"(2) to the extent that such amounts exceed the amount necessary to fulfill the distribution requirements of section 455, be paid to his family.

"(e) Interest on any such obligation shall, to the extent it remains unsatisfied, accrue at the rate of 6 percent per annum.

"REGIONAL LABORATORIES TO ESTABLISH PATERNITY THROUGH ANALYSIS AND CLASSIFICATION OF BLOOD

"SEC. 458. (a) The Secretary shall, after appropriate consultation and study of the use of blood typing as evidence in judicial proceedings to determine paternity, establish, or arrange for the establishment of designation of, in each region of the United States, a laboratory which he determines to be qualified to provide services in analyzing and classifying blood for the purpose of determining paternity, and which is prepared to provide such services to courts and public agencies in the region to be served by it.

"(b) Whenever a laboratory is established or designated for any region by the Secretary under this section, he shall take such measures as may be appropriate to notify appropriate courts and public agencies (including agencies administering any public welfare program within such region) that such laboratory has been so established or designated to provide services, in analyzing and classifying blood for the purpose of determining paternity, for courts and public agencies in such region.

"(c) The facilities of any such laboratory shall be made available without cost to courts and public agencies in the region to be served by it.

"(d) There is hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"SUPPORT COLLECTION SERVICES FOR OTHER INDIVIDUALS

"SEC. 459. The child support collection or paternity determination services established under this part shall be made available to any individual not otherwise eligible for such services under the preceding sections of this part upon application filed by such individual with the Attorney General or, if a State or political subdivision has a program approved under section 454, with such State or political subdivision as may be appropriate. The Attorney General (or a State or political subdivision) shall impose an application fee for furnishing such services. Any costs in excess of the fee so imposed shall be paid by such individual by deducting such costs from the amount of any recovery made.

"CONSENT BY THE UNITED STATES TO GARNISHMENT AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS

"SEC. 460. Notwithstanding any other provision of law, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual, of his legal obligations to provide child support or make alimony payments.

"PENALTY FOR NONSUPPORT

"SEC. 461. (a) Any individual who is the parent of any child or children and who is under a legal duty to provide for the support and maintenance of such child or children (as required under the law of the State where such child or children reside) but fails to perform such duty and has left, deserted, or abandoned such child or children and such child or children receive assistance payments to provide for their support and maintenance which are funded in whole or in part from funds appropriated therefor by the Federal Government shall, upon conviction, be penalized in an amount equal to 50 percent of the support obligation owed to the United States, or fined not more than $1,000, or imprisoned for not more than one year, or any combination of these three penalties.

"(b) This section does not preempt any State law imposing a civil or criminal penalty on an absent parent for failing to provide support and maintenance to his child or children to whom such parent owes a duty to support."

COLLECTION OF CHILD SUPPORT OBLIGATIONS

SEC. 2. (a) Subchapter A of chapter 64 of the Internal Revenue Code of 1954 (relating

to collection of taxes) is amended by adding at the end thereof the following new section:

"SEC. 6305. COLLECTION OF CERTAIN LIABILITY TO THE UNITED STATES.

"Upon receiving a certification from the Attorney General under section 452(b)(1) of the Social Security Act with respect to any individual, the Secretary or his delegate shall assess and collect the amount certified by the Attorney General in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

"(1) no interest or penalties shall be assessed or collected, and

"(2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply."

(b) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6305. Collection of certain liability to the United States."

CONFORMING AMENDMENTS TO TITLE XI

SEC. 3. Section 1106 of such Act is amended—

(1) by striking out the period at the end of the first sentence of subsection (a) and inserting in lieu thereof the following: "and except as provided in part D of title IV of this Act.";

(2) by adding at the end of subsection (b) the following new sentence: "Notwithstanding the preceding provisions of this subsection, requests for information made pursuant to the provisions of part D of title IV of this Act for the purpose of using Federal records for locating parents shall be complied with and the cost incurred in providing such information shall be paid for as provided in such part D of title IV."; and

(3) by striking out subsection (c).

CONFORMING AMENDMENTS TO PART A OF TITLE IV

SEC. 4. (a) Section 402(a)(8)(A) of such Act is amended—

(1) by striking out "and" at the end of clause (i);

(2) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof a comma; and

(3) by adding at the end of clause (ii) the following new clause;

"(iii) 40 percent of the first $50 per month, with respect to the dependent child (or children), relative with whom the child (or children) is living, and other individual (living in the same home as such child (or children)) whose needs are taken into account in making such determination, of all income derived from support payments collected pursuant to part D; and".

(b) Section 402(a)(9) is amended to read as follows:

"(9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only to (A) public officials who require such information in connection with their official duties, or (B) other persons for purposes directly connected with the administration of aid to families with dependent children;".

(c) Section 402(a)(10) is amended by inserting immediately before "be furnished" the following: ", subject to paragraphs (24) and (26),".

(d) Section 402(a)(11) is amended to read as follows:

"(11) provide for prompt notice (including the transmittal of all relevant information) to the Attorney General of the United States (or the appropriate State official or agency (if any) designated by him pursuant to part D) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);".

(e) Section 402(a) is further amended—

(1) by striking out "and" at the end of paragraph (22); and

(2) by striking out the period at the end of paragraph (23) and inserting in lieu thereof a semicolon and the following:

"(24) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ, in the administration of such plan;

"(25) contain such provisions pertaining to determining paternity and securing support and locating absent parents as are prescribed by the Attorney General of the United States in order to enable him to comply with the requirements of part D; and

"(26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

"(A) to assign the United States any rights to support from any other person he may have (i) in his own behalf or in behalf of any other family member for whom he is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed, and which will accrue during the period ending with the third month following the month in which he (or such other family members) last received aid under the plan, and

"(B) to cooperate with the Attorney General or the State or local agency he has delegated under section 454, (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for herself and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due herself or such child."

(f) Section 406 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding the provisions of subsection (b), the term 'aid to families with dependent children' does not mean payments with respect to a dependent child, a relative with whom any dependent child is living, or any other individual (living in the same home as such a child and relative) whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part, who for any month is the parent of a child with respect to whom such aid is claimed who fails to cooperate with any agency or official of the State or of the United States in obtaining support payments for herself or such child."

(g) Section 402 (a) (17), (18), (21), and (22), and section 410 of such Act are repealed.

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall become effective on January 1, 1974.

By Mr. McINTYRE:

S. 2082. A bill to divorce the businesses of production, refining, and transporting of petroleum products from that of marketing petroleum products. Referred to the Committee on Commerce.

PETROLEUM MARKETING DIVORCEMENT ACT OF 1973

Mr. McINTYRE. Mr. President, the legislation I am introducing today would make it unlawful for any person engaged in the marketing of any refined petroleum product to engage in one of more of the other basic operations of the petroleum industry, namely, production, refining and transportation. The basic purpose behind the legislation is not new to the Congress. Divorcement legislation was first introduced in both the Senate and the House in the 75th Congress. As early as 1937, there was awareness of the danger of allowing complete and total vertical integration in our domestic petroleum industry.

The one difference between the consideration of marketing divorcement legislation in 1937 and considering it today, however, is the clearly recognizable fact that there is now underway a definite movement by a number of major oil companies to attain control over the marketing segment of the oil industry.

During the past few years, a number of developments have given a clear indication that if Congress does not act swiftly the wholesaling and retailing functions of our domestic petroleum industry will become completely dominated by a relatively small number of integrated oil companies.

In these last few years, we have witnessed a substantial number of mergers and acquisitions in which the dominant companies have substantially increased their control within the oil industry. During the same period that we have witnessed a significant number of mergers within the industry, there has also been a number of marketing realinements. It appears that rather than attempting to market on a national scale, several major companies have decided to concentrate in localized marketing territories, thus dividing the retail market of this country among a small number of strong regional companies. Examples are the withdrawal of Gulf Oil Co. from 18 States, while other countries such as Exxon, Phillips Oil Co., British Petroleum, Atlantic Richfield, American Oil Co., and Sun Oil Co. pursue a similar pattern.

The impact on competition of such a marketing realinement is obvious. In various regions of the country, we will find that one company dominates a given marketing territory. If coupled with control over the marketing operations in those areas, this will mean that price competition will be severely restrained and consumer costs will rise.

At the same time that these major oil companies are retrenching in localized marketing, there are also definite signs that a concerted effort is underway to destroy the independent marketing segment of the industry.

There is considerable discussion as to whether the fuel shortages we are presently experiencing are, in fact, real or are contrived by the dominant members of the petroleum industry itself.

Several investigations by congressional committees and regulatory agencies are in progress to determine the true causes of the gasoline and home heating oil shortages. Until these investigations are completed, it is difficult to make an accurate appraisal of what actually caused the present supply conditions. However, it is becoming clear that whether the shortage itself was caused by lack of supply or other physical factors, a number of

companies are using the shortage to severely restrict competition at both the wholesale and retail level of the marketing segment of the industry. Hundreds of independent retail marketers, both branded and unbranded, have been forced to discontinue operation, and thousands of other retailers are being forced to severely curtail their marketing activities.

If immediate action is not taken, I am afraid that before this shortage is over, we will find that the marketing of gasoline, home heating oil, and other petroleum products will be totally controlled by a small number of totally integrated major oil companies.

Congress must take affirmative action to halt any further market domination and control. If a handful of giant petroleum corporations are allowed to gain control over the entire petroleum industry—from crude oil production to refining to transportation to marketing—then the implicit abuse of marketing power is obvious.

The marketing dominance of a relatively small number of major integrated companies was clearly illustrated during the hearings I chaired before the Senate Banking, Housing and Urban Affairs Committee in early May.

Testifying before the committee, the chairman of the board of City Service Co., Citgo, described his corporation as:

> A small oil company engaged in all phases of the petroleum industry in the United States.

This so-called small oil company was listed in this year's Fortune's 500 largest industrial corporations as the 63d largest in the country. This statement by the chairman of the board of the 63d largest industrial corporation in this country clearly depicts the tremendous concentration that has already developed within our domestic oil industry.

It is clear that if the major oil companies are allowed to continue to take over the marketing segment of the industry then thousands of small business wholesalers and retailers will be destroyed.

The argument is usually made that whenever the Federal Government intrudes into the operations of an industry competition suffers. But in this case, I think that it is clear that the only way to preserve the integrity of competition within the marketing segment of our domestic oil industry is for Congress to clearly state that no refiner of petroleum products shall also be allowed to market, that is, to retail and wholesale.

If the major companies are allowed total control and ownership of retailing, the result will be fewer and fewer sources of supply available to consumers in any given part of the country. As I pointed out earlier, there is a movement underway now among the dominant companies in the industry to withdraw from various sections of the country and expand in others. These same companies are also expanding in the operation of their own stations by directly selling under their own brand name and developing secondary brands at key stations in major marketing areas. If this trend is allowed to continue, a relatively small number of companies can and will completely control the retail price of petroleum products throughout the country.

The solution is to prohibit refiners and producers from integrating forward into the retailing of gasoline. Not only must they be prohibited from totally controlling the marketing segment of the industry but they must be required to divest themselves of the stations they presently operate.

The major companies—with Government assistance through tax laws and such programs as the quota system—have already been allowed to monopolize the production and refining segments of the industry.

The so-called gasoline shortage is now being used as the weapon to allow them to complete the process of monopolizing the total marketing system.

Mr. President, affirmative action is needed now. If the desire and goal of this country is to maintain competition, then the Petroleum Marketing Divorcement Act of 1973 must be acted upon by Congress immediately.

Numerous small business marketers of gasoline and petroleum are being driven out of business daily. It is clear that the Federal Government must draw a line between the production and refining of petroleum products and its marketing if competition in its true sense is to be maintained.

All evidence indicates that the shortages we are presently experiencing will increase substantially over the next few years. What we are experiencing in 1973 will be worse in 1974, and this trend will continue for the next few years at least.

The divorcement of marketing from other functions within the petroleum industry will not resolve all the problems we are presently facing. It is obvious that if we are going to overcome our present energy crisis, a detailed and consolidated Federal energy program must be developed to encompass research and development of fuel sources, conservation, development of additional domestic fuel sources, construction of substantial storage capacity, and a realization of the balance between energy needs and environmental goals. However, during this critical period in demand and supply of energy resources, we must make sure that short term supply dislocations do not result in long term competitive distortions within the petroleum industry. The maintenance of an independent marketing segment of the oil industry is imperative. Only through clear and affirmative actions by the Federal Government can we assure a meaningful level of competition in the marketing of petroleum products.

Mr. President, I ask unanimous consent that the Petroleum Marketing Divorcement Act of 1973 be printed in the RECORD at this point.

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

S. 2082

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the policy of Congress to protect commerce among the several States in petroleum and its products from the burdens and harmful effects and monopolies which result from the operations of persons in the marketing of petroleum products combined with operations in production, refining, and transportation of petroleum and petroleum products.

SEC. 2. As used in this Act—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, joint-stock companies, trustees and receivers in bankruptcy and reorganization, common-law trusts, or any organized group, whether or not incorporated.

(b) The term "commerce" means trade, traffic, or transportation among the several States or within the District of Columbia, or between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof.

(c) The term "production" means the development of oil lands within the United States and the production of crude petroleum and natural gas thereon, the storage of crude petroleum and natural gas thereon.

(d) The term "transportation" means the transportation of petroleum products by means of pipe lines, railroads, or tankers.

(e) The term "refining" means the refining, processing, or converting of crude petroleum, fuel oil, or natural gas into finished or semifinished products. It shall include the initial sale with transfer of ownership of refined petroleum products to customers at the refinery.

(f) The term "marketing" means the sale and distribution of refined petroleum products, other than the initial sale with transfer of ownership to customers at the refinery.

(g) A person shall be deemed to be an affiliate of another if such person controls or is controlled by or is under common control with such other person.

(h) The term "control" means actual or legal power or influence over another person, whether direct or indirect, arising through direct or indirect ownership of capital stock, interlocking directorates or officers, contractual relations, agency agreements, or leasing arrangements where the result is used to affect or influence persons engaged in the marketing of petroleum products.

SEC. 3. It shall be unlawful for any person directly or indirectly to be engaged in commerce in the marketing of refined petroleum products while such person or affiliate of such person is also engaged in one or more of the other three branches of the petroleum industry, namely, production, refining, and transportation.

SEC. 4. Any person knowingly violating the provisions of this Act on or after January 1, 1974, shall upon conviction be punished by a fine of not to exceed $100,000 for each such offense committed.

SEC. 5. It shall be the duty of the Attorney General immediately to examine the relationships of persons now engaged in one or more branches of the petroleum industry and to institute suits in equity in the United States district courts for the issuance of mandatory injunctions commanding any person to comply with the provisions of this Act.

SEC. 6. The United States district courts shall have exclusive jurisdiction of violations of this Act and of all suits in equity and actions at law brought to enforce any compliance with or enjoin any violation of this Act. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce compliance with or enjoin any violation of this Act may be brought in any district wherein the defendant is found or is an inhabitant or transacts business, and process in any such cases may be served in any other district.

SEC. 7. This Act shall be known as the "Petroleum Marketing Divorcement Act of 1973".

By Mr. CHILES:

S. 2083. A bill to amend the Foreign Assistance Act of 1961, as amended. Referred to the Committee on Foreign Relations.

Mr. CHILES. Mr. President, I am introducing today a bill to amend the Foreign Assistance Act of 1961 to give it greater focus on the problems of poor people in developing countries, especially health, nutrition, education, family planning and small farm agriculture. The bill also introduces language to assure a phase out of each aid project authorized within 3 years, host country financing of all our aid projects to the extent of 20 percent and an end to the "follow on" character of many of our loans where one project leads to another. My bill also contains language which would require the aid agency to more tightly relate aid to specific program purposes, intermediate goals and defined time periods so that results, or the lack of them, will be more visible.

I ask unanimous consent that this bill and the testimony I will present to the Foreign Relations Committee today be printed in the RECORD at this point.

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

S. 2083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201(b) of the Foreign Assistance Act of 1961, relating to the Development Loan Fund, is amended by striking out the first sentence and "In so doing," at the beginning of the second sentence and inserting in lieu thereof the following:

"The President is authorized to make loans payable as to principal and interest in United States dollars on such terms and conditions as he may determine in order to be responsive to efforts in developing countries to address the problems of the poorest people, emphasizing projects in health nutrition, education, family planning and small farm agriculture. In so doing, the President shall see to it that, in order to assume that host country interest and initiative exist and that there not be endless funding by the United States, (A) the host country participate in the financing of the project to the extent of 20 percent of the total cost, (B) the phase-out period of the project not exceed three years with efforts being made to find local and other international sources of financing both during and after the three year period, and (C) projects not have a "follow on" character which necessarily links one project to another.

SEC. 2. Section 211(a) of the Foreign Assistance Act of 1961, relating to technical cooperation and development grants, is amended by striking out the first sentence and "In so doing" in the second sentence and inserting in lieu thereof the following:

"The President is authorized to furnish assistance on such terms and conditions as he may determine in order to be responsive to efforts in developing countries to address the problems of the poorest people, with emphasis upon health, nutrition, education, family planning and small farm agriculture. In so doing the President shall see to it that, in order to assure that host country interest and initiative exist and that there not be endless funding by U.S. assistance, (A) the host country request the technical assistance before it is authorized, (B) the host country finance 20 percent of the costs of technical assistance and grant aid projects, (C) that any given technical assistance and grant aid be phased out within three years with efforts being made to find local and other international sources of financing both during and after the three year period, and (D) that grant aid projects not have a "follow on" character which necessarily links one grant to another; and"

SEC. 3. Section 251 of the Foreign Assistance Act of 1961, relating to Alliance for Progress, is amended as follows:

(1) Strike out the last sentence of subsection (a) and insert in lieu thereof the following:

"The President is authorized to furnish assistance on such terms and conditions as he may determine in order to be responsive to efforts in Latin America to address the problems of the poorest people, with emphasis upon health, nutrition, education, family planning, and small farm agriculture."

(2) In subsection (b) strike out the first sentence and 'In furnishing assistance under this title," in the second sentence and insert in lieu thereof the following:

"Assistance furnished under this title shall be directed toward the development of human as well as economic resources. In furnishing assistance under this title the President shall see to it that, in order to assure that host country interest and initiative exist that there not be endless funds by U.S. assistance, (A) the host country participate in the financing of the project to the extent of 20 per centum of the total cost, (B) the phase out period of the project not exceed three years with efforts being made to find local and other international sources of financing both during and after the three year period, and (C) that projects not have a "follow on" character which necessarily links one project to another; and"

SEC. 4. (a) Subsections (a) and (b) of section 621A of the Foreign Assistance Act of 1961, relating to strengthened management practices, are amended to read as follows:

"(a) The Congress believes that United States foreign aid funds could be utilized more effectively by developing program purposes in objectively measurable terms with stated time periods for achievement, together with a management system which provides for systematic in-house evaluation of the progress made toward such purposes by knowledgeable officials who have no responsibility for program management. The management system should provide for the application of advanced management decision-making, information and analysis techniques such as systems analysis, automatic data processing, benefit cost studies, and information retrieval.

"(b) To meet this objective, the President shall establish a management system that includes: the formulation of program aims, objectives, goals and targets, both final and intermediate, in objectively measurable terms with defined time periods for accomplishment; the development of a comprehensive, unified plan for each separate overall program, and for each country or region to which program resources are directed—not in relation to a single budget year but in terms of intermediate and final program aims setting forth the final program aims, objectives, goals and targets which have been or are to be achieved, together with the strategy and aggregate financing requirements for achievement of the program purposes; and the development of mission oriented budgets. All requests presented to the Congress for authorizations and appropriations for fiscal year 1975 and subsequent fiscal years to carry out programs under this Act shall be formulated in accordance with the management system required to be established by this subsection."

(b) Section 644 of the Foreign Assistance Act of 1961, is further amended by adding the following new paragraphs immediately below paragraph(m):

"(n) 'Program aim' means the final or ultimate purpose of a given program.

"(o) 'Program objective' means the final or ultimate purpose in a given country or region.

"(p) 'Program goal' means an element in a plan to accomplish a stated objective.

"(q) 'Program target' means an element in a plan to accomplish a stated goal.

"(r) 'Program purposes' includes program aims, program objectives, program goals and program targets."

TESTIMONY, SENATOR LAWTON CHILES, COMMITTEE ON FOREIGN RELATIONS, JUNE 27, 1973

Mr. Chairman, I am honored to have this opportunity to testify before the Committee on Foreign Relations on our foreign assistance programs. I share a strong interest in Latin America with several members of this committee but I am also concerned about our overall foreign assistance effort world wide. Many of our constituents are increasingly worried about what this nation is involved in abroad and how much of our resources are going into foreign countries without us getting any visible results from it. I think we have to pay increasing attention to what the people are thinking about aid. We in the Congress need to take a new look at what the aid program is doing and decide what's worth the taxpayer's money and what is not.

The time has come for the Congress to act. We have gone on now a year and a half on the basis of Continuing Resolution Authority instead of an authorization bill. This provides the executive agencies with the opportunity to go on doing what they have been doing in the past the way they want without any new direction or guidance from the Congress on where to go. This can't go on.

Times have changed. The present program is rooted in the thinking of the years immediately after World War II. The Marshall Plan approach is not viable in the 1970's. We now have a new understanding of the limits of our own power. We find ourselves in very different economic circumstances where Europe and Japan have become strong competitors instead of friends in need. We are no longer the only big guy on the block with change in his pocket. We no longer find ourselves locked into a gang war with the Soviet Union trying to divide up the world between us.

We are also at a moment in history when we in the Congress must take a stronger hand in setting the priorities and direction the nation must take. The Constitution is like the Bible. It is overlooked because it was written a long time ago. Foreign aid is both a budget and a foreign policy matter. It is both these areas that the Constitution gives to the Congress clear authority to act. The time has come, Mr. Chairman, when to preserve the role of the Congress in our system of government, we must act. And the foreign aid program is one place we can begin, as the Chairman of this Committee has so forthrightly done in the military aid and sales program and just yesterday in putting forward an economic assistance bill.

A. AID FRAMEWORK

What we most need to do in the Congress is to provide a framework for the kinds of changes we want to see so the Executive has a clear idea of where we want them to go and perhaps most of all where we don't want them to go.

Before I go into some specific aspects of the legislation, I would like to make clear my outlook on aid—the framework within which I think specific changes in legislation should be made.

The basic problem of our economic assistance has been that it was born from the

notion that we, the United States, could bring about change in the world if we only put some money, men and ideas to work on the world's problems. We could make the world safe for democracy with our military might and make the world economically viable through our wealth.

So we got ourselves spread thin in our aid program to developing countries. Our aid ranges across transportation, power, industry, mining, agriculture, health, education, community development, communications. You name it and we were into it.

If you take 20,000 employees and ask them what can be done to achieve more development in poor countries, you are going to get into everything. There are limitless numbers of things we can do to help development in underdeveloped countries. Unless some restrictions are put on what we set out to do, we can go on pouring more and more money into endless numbers of activities in a host of different countries.

Mr. Chairman, this still goes on. The other day I was looking at the ten new loans AID is taking final action on in the closing days of FY 1973 to the tune of over $100 million. These loans were for such things as a Savings and Loan Housing Program in Bolivia ($6 million), telecommunications in Malagasy ($2 million), power projects in Afghanistan ($5 million) and the Philippines ($4.5 million), roads in Nepal ($7 million) and an industrial bank in Turkey ($9 million). It's endless the places and kinds of things AID is doing.

These 10 loans provide a good sample to show what is going on. Take the loan to Malagasy, for example. Here is the AID description of the loan.

This loan is a follow-on to a $2.0 million loan project which A.I.D. initiated in 1967 to expand and modernize Malagasy's telecommunications system. The activity involves the purchase and installation of materials required for construction and rehabilitation of main telephone trunk lines and local links to these lines in rural areas in the Western and Southern regions of the Malagasy Republic. A.I.D.-financed materials will allow for developing 90 miles of additional telecommunications facilities and replacement of 622 miles of inadequate 50 year old lines.

Because many of the communities in the areas served by these lines do not have all weather road connections and are thus isolated during part of each year, the planned facilities will serve to alleviate the effects of such isolation.

Mr. Chairman, if we as a government are going to take upon ourselves responsibility for alleviating the isolation of rural folk in western and southern Malagasy, we are indeed prepared to take on responsibility for the fate of all men everywhere. This is nonsense.

So we have to place some very real restrictions on what kinds of activities aid can be spent on and what the goals of our aid should be. Otherwise we are going to be all over the map, which gets us nowhere. This kind of program doesn't give our taxpayers any sense that anything they can get a handle on is being done with their money.

Mr. Chairman, I call your attention to the fact that the Malagasy loan was a "follow on" loan in a previous AID loan. Two of the ten loans in this group were "follow on" loans. The other one has a classic description. Bear with me while I read another AID loan description.

Afghanistan-Kajakai transmission ($5 million)

This is a follow-on to an FY 1970 AID power project which did not include sufficient funds to finance complementary transmission facilities. The Afghan's attempts to fund that aspect of the overall endeavor from other sources failed: the Asian Development Bank, World Bank and Federal Republic of Germany declined to finance that part of the project. Thus, in late 1972 they made a direct appeal to the Administrator of AID for financing of the transmission facilities.

After careful study of the alternatives, AID concluded that the only practical way to limit an otherwise long hiatus between powerhouse completion and transmission system completion (both integral parts of the system) was to undertake the latter as an AID project. This supplement ($5,000,000) to the original loan is for the purpose of constructing the transmission line.

Now, Mr. Chairman, I am sure you agree this is the precise opposite of the kind of aid we should be giving. AID financed part of a project that couldn't show results unless the other part was financed. Instead of AID financing being a means of bringing in local financing or getting the international development banks on to something they might not have picked up, AID was left holding the bag. AID had to put good money after bad. One AID loan triggered another.

Mr. Chairman, I strongly believe that future AID loans should be carefully designed for the purpose of triggering other sources of financing and effort. The role of our aid should be to bring other people and institutions to bear on an activity which would have otherwise gone unheeded. Our bilateral economic assistance should principally be "front end money" with someone else picking up on our initiative and making it their own. Successful development is self generated not foreign financed. Our aid can stimulate and assist. But it should not substitute for the effort others might make.

So we need a clear *phase-out* principle to guide our aid program. Legislation by the Congress should, in my opinion, insist that the purpose of aid be to *trigger* not to finance.

Part of this would be to see that efforts are made by the aid agency (in both its public programs and through its volunteer service and private agency programs) to get a *mixing* of AID funds with financing by other groups. AID shouldn't be going in and paying for things when others more directly concerned are not willing to pitch in. Even U.S. private groups who work in developing countries should seek to elicit collaborative financing and effort rather than to move forward on their own.

The whole idea of development is to energize and activate people in ways which will enhance the quality of their lives. Paying, providing and pushing is not the way people and institutions from the outside can help. Only by getting people to act on their own behalf can our aid do any good. Otherwise we just leave a project in place but the people remain just as unable to change their own lives as before.

The establishment in legislation of *phase out* as the guiding principle of our bilateral economic assistance is the central recommendation I would make to this Committee. I would further recommend that language also be put into the legislation requiring AID seek to *mix* its own investment with funds from local or other foreign sources to the maximum extent possible.

B. TYPES OF ASSISTANCE

My philosophy of how AID should operate is probably nowhere better born out in practice than in the *emergency relief programs* run by AID. These efforts make a major impact abroad not only in the individual coutries affected by national disaster but in the world at large. We are helping people in tangible ways when they are at their moment of most acute need. We move in efficiently with significant resources and skills. The United States is known as being a generous and effective contributor when disaster strikes. Our emergency relief programs carry out the American people's desire to be of help.

At the same time, these programs are not permanent give away programs which commit us as a government to financing an endless string of apparently worthy projects. When relief gives way to reconstruction, other sources of funds frequently are and should increasingly be drawn in. Relief aid can be the perfect trigger to a larger national effort toward development more broadly supported by diverse international agencies and different countries. I am hopeful that this will be the case in Nicaragua, for example.

So I very much feel that emergency relief is one area where our bilateral economic assistance should continue to be strongly supported.

Another type of assistance which does not provide a bottomless pit for our money to go down is *technical assistance*. Technical assistance is a way we can share the great reservoir of knowledge built up over the years in this country in government, in the private sector and in our universities without becoming a worldwide dole. Through technical assistance, problem areas can be pinpointed and new approaches can be suggested. The multiplier effects and trigger potential of technical assistance is very high. Through technical assistance, along with some seed money for pilot projects, we can lead others to the trough without being the major source of funds ourselves.

Technical assistance should play a determining role in where capital assistance goes rather than technical assistance complementing a capital project. Instead of the AID thrust mostly being in the funding rather than in the ideas and skills, technical assistance should increasingly point the way for the financing. In this way it can be, like emergency relief, a means of implementing the phase out and triggering philsophy I have advocated.

I believe that technical assistance must relate to needs of the developing country and respond to requests by them rather than reflect the priorities of our aid agency. Again it is only if there is some initiative *within* the host country to seek change in a particular area that change will actually occur. It is only if there is some leadership there in the country to use the technical assistance we offer and continue on after our assistance has ended that anything will really come of our efforts.

Unless technical assistance is responsive to in-county requests it is all too easy that it become paternalistic and bureaucratic the way our capital assistance became. Also, if the host government were required to pay some portion of the cost of technical assistance this would assure that the request was real and the need valid rather than something trumped up to cover a requirement for in-country requests. All of this speaks to the need for a collaborative and cooperative style of assistance rather than the high-handed, we-know-what's-best-for-you style we have adopted in the past.

Finally we can't just stop providing *capital assistance* altogether. We need to continue to have a capital assistance program to provide the trigger for other spending sources and to try out new approaches resulting from our technical assistance efforts.

Again I think we should be clear about what the restrictions should be on this kind of money. I don't think there should be any lump-sum transfers to other governments, what are called program loans, to help them achieve their broad growth and import goals. We need to require that AID be more specific requiring the agency to link its loans to activities that generate the most jobs and help the most people. Our aid needs to be increasingly people oriented trying to reach people in poverty, hunger and disease. The American people are frustrated at being privileged in a world where the majority of mankind is poor and yet being unable to find a way to reach out to poor people abroad

without interfering in the internal affairs of other countries or lining the pockets of the rich.

One way to reach poor people abroad is to focus more of our aid on health, nutrition, education, population, small farm agriculture and the like. This will bring more emphasis to the real problems affecting poor people abroad. With mixing requirements and a phase-out principle in our aid program, it can serve as a means of bringing more local local and world resources to bear on the poor in developing countries.

In this regard, I find myself very much in agreement with the priorities established in the House Foreign Affairs Committee bill which, among other things, seeks to focus more priority on the areas I have mentioned. I strongly support the general philosophy and overall direction of the House bill. This seems to me to be a very positive initiative from the Congress which is the kind that is increasingly needed by the legislative branch in foreign affairs.

C. BUDGET CONTROL

But whereas I am in basic agreement on the priority activities emphasized in the House bill I do not think that the five activities or programs in the House bill (agriculture, rural development, and nutrition; population planning and health; education, public administration, and human resource development; transportation, power, industry, and urban development; select countries and problems) should be the categories for funding. The liberal transfer authority of the House bill as between these different categories is desirable only if the Congress has tighter control in the amount of money available for the three types of assistance I mentioned before, namely

1. Emergency Relief Assistance.
2. Technical Assistance.
3. Development Assistance.
   a. Loans.
   b. Grants.

Only if the Congress has good control over these categories can we assure that the Congress does not continue to authorize a sweeping give-away program through grants rather than put our principal effort on technical assistance and seed capital loans.

Furthermore, while I am in agreement that the first two categories in the House bill namely, (103) agriculture, rural development and nutrition, and (104) population planning and health, as well as education (105), I am very much less comfortable with the broad categories of (105) public administration and human resource development and (106) transportation and power, industry and urban development and the program loan authority under section (107). These latter categories are either too broad, such as human resource development, or represent the kind of sectors that the international development agencies like the World Bank are involved in and that AID should get out of, especially transport, power, industry, and public administration. These areas have to do with the economic structure or the government of the country and not poor people per se. As I indicated at the outset, if we don't narrow down the aid program to definable objectives there is no end of things we can do to promote overall economic growth or political development. If we focus hard on health, education, nutrition, small farm agriculture and population aimed at bettering the lives of low income earners we will have given some more people-content to our foreign assistance and reduced our goals to specific programs rather than broad objectives for countries as a whole. This way the Congress can look at the health programs or the nutrition programs that we finance to see how concrete the goals are, whether there is matching of funds, whether there is a phase out date, whether the goals are being achieved and so on. Our assistance will become more concrete, more visible and hopefully more effective and justifiable.

One of the basic problems with our aid program has been that it has been linked to goals which are too broad and too grandiose. Development assistance by the U.S. up until now has been linked to the overall goals of nations as a whole—to accelerate economic growth, promote democracy, achieve social justice. Helping nations achieve these goals has been part of our foreign policy of seeking peace and stability in the world.

Once the foreign assistance program has been linked to these grand goals of foreign policy there is no end to the number of projects that can be judged as serving those ends. In my view, Mr. Chairman, this is where our aid program has gone off the track. The rationale for U.S. foreign assistance has been to serve the broad goals of U.S. foreign policy which is not a rigorous or specific enough criteria to ever say no—this project or this program doesn't meet the rules the Congress has established.

Mr. Chairman, I respectfully submit to you today for the consideration of the Committee a bill to amend the Foreign Assistance Act of 1961 to establish in clear language.

the phase out principle.
the host country financing requirement.
the end of "follow on" loans.
definition of more specific goals and programs.

I am hopeful that the language I put forward for your consideration meets the need for a more sensible aid policy that reflects more clearly public sentiment concerning the use of taxpayer funds and helps give the program more specific policy guidance from the Congress to the Executive.

By Mr. BELLMON:

S. 2084. A bill to amend the Truth in Lending Act to prohibit discrimination on account of sex or marital status. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BELLMON. Mr. President, I am today introducing a bill to amend the Truth in Lending Act to prohibit discrimination against individuals seeking credit on account of sex or marital status.

The time for this statutory change has long since passed. If we act today on this bill, we will still be acting too late, for right now in various segments of the economy, women, both married and single, are being discriminated against when they seek credit, either in the form of retail credit, the issuance of credit cards, or bank loans. My bill would insure that women receive equal treatment and are held to equal standards when they seek credit.

In an economy which is increasingly dependent on credit, it is patently unfair and unjust to deny any segment of the population equal treatment under the law. The necessity of this legislation has been clearly documented in the findings of the National Commission on Consumer Finance and is increasingly a matter of public concern. This amendment would extend the rights and privileges now enjoyed by the male segment of our population to the female segment, by an extremely simple mechanism which provides for both criminal and civil liability in a statutory scheme already in existence. The credit-worthy woman should not be barred from economic transactions merely because of her sex or marital status. This amendment to the Truth in Lending Act would insure the rights of women in seeking credit by providing a vehicle which clearly defines the rights of women and provides a mechanism for judicial enforcement of those rights.

I urge the Senate to extend to women the rights presently accorded men in our society by adopting this bill.

Mr. President, I ask unanimous consent that the complete text of this bill be printed in full in the RECORD at the conclusion of my remarks.

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

S. 2084

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

SEC. 2. Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following new section:

"§ 135. Prohibition of Discrimination Against Individuals Seeking Credit on Account of Sex or Marital Status.

"(a) It shall be unlawful for any creditor or card issuer to discriminate on account of sex or marital status against any individual with respect to the approval or denial of credit or terms of credit in connection with any consumer credit sale whether or not under an open end credit plan, any consumer loan, or any other extension of consumer credit, or with respect to the issuance, renewal, denial, or terms of any credit card.

"(b)(1) Any creditor or card issuer who discriminates against any individual in a manner prohibited by subsection (a) is liable to such individual in an amount equal to the sum of—

"(A) in the case of an individual action, not less than $100 nor more than $5,000, or

"(B) in the case of a class action, not more than $100,000, and

"(C) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court.

"(2) Any action under this section may be brought in any court of competent jurisdiction during the one-year period commencing on the date of occurrence of the violation.".

SEC. 3. The amendment made by this section shall take effect on the sixtieth day after its enactment.

By Mr. CHILES:

S. 2086. A bill to require that all political contributions of money in excess of $50 to or for the benefit of candidates for nomination for election, or for election, to Federal office be made by bank check drawn on the account of the person making the contribution, or be accompanied by the name, address, and social security number of the contributor. Referred to the Committee on Rules and Administration.

Mr. CHILES. Mr. President, elections are the key device in democratic governments for regulating official decisionmaking. When working properly, they help to assure that officeholders remain responsive to the greatest possible number of citizens. Though no one can provide a simple answer to the question, "Does money win elections?" it is undeniable that money does play a major role in winning. It does not guarantee victory, but in some cases the amount collected and spent can be decisive. Money cannot totally obliterate the influence of issues and candidates' party orientation on voting decisions, but it can and often does make a difference.

In a democracy the voters choose the major policy officials in free and relatively frequent elections. The crucial factor determining whether or not we consider a government democratic is not how much power the public officials have, but rather how public officials secure and retain their offices.

Events surrounding the last general election have been and will, no doubt, continue to be examined and investigated in an effort to determine the source of enormous amounts of campaign moneys. Coupled with the investigation will be repeated cries for reform, for changes in the law concerning campaign financing. And surely some changes are in order.

I think Americans are aware that campaign costs are mounting. And though there is a scant amount of reliable data on the cost of running for office in this country, I believe we were all shocked at the findings made during the hearings about the tremendous amounts of cash the Committee to Re-elect the President had on hand. Accounts of suitcases stuffed and safes spilling over with dollars surprised many of us and alerted us all that something had to be done to get some kind of control over the complex matter of financing campaigns.

Some Americans view public policy-making as a sordid process where the wealthy control elected officials. And while there is some corruption, I believe its reputation for moving the wheels of government is far greater than its performance. But money can twist policy in subtle ways—and any effort we can make to erect a barrier between the direct translation of money into policy decisions must be made. The bill I am introducing today is such an effort.

My bill aims at making contributions traceable. It would require that any contribution of $50 or more be made by check, drawn on the account of the individual making the contribution, or accompanied by the name, address, social security number, and occupation of the contributor. The language of this proposal in no way places a new limitation on the aggregate amount of money allowed as a contribution, but simply would make the money traceable.

In a government whose level of citizen trust is at an all-time low, there is an obvious need to reestablish governmental accountability to the people. A recent Harris poll disclosed that 81 percent of the public is convinced that corruption in Washington is "serious" and the number with high respect for the Federal Government comes to no more than 27 percent. People are more suspicious than ever before of their government and their cynicism is only nurtured by the lack of accurate and dependable information concerning campaign contributions.

There has been much comment about the dramatic rise in the high cost of politics in recent years. It has been estimated that $400 million was spent in 1972 for all elective and party politics in this country at all political levels, in campaigns for nominations and for election. My bill, making contributions directly traceable if they are in amounts over $50 recognizes the high cost of campaigns, but recognizes also the need for knowing who the big contributors are and how much they gave—and to whom.

I strongly urge my colleagues to support this measure.

Mr. President, I ask unanimous consent to have the text of the bill printed at this point in the RECORD.

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

S. 2086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 614. Form of contributions of money

"(a) No person shall make any contribution of money to or for the benefit of any candidate or political committee in excess of $50, in the aggregate during any calendar year, unless—

"(1) such contribution is made by means of a check from a National or State bank, drawn on the account of the person making the contribution and identifying that person by name and bank account number; or

"(2) the person making the contribution furnishes in writing to the recipient thereof his full name and address, and, in the case of an individual, his social security number.

"(b) (1) Violation of the provisions of this section is punishable by a fine of not to exceed $1,000, imprisonment for not to exceed 1 year, or both.

"(2) Willful and knowing violation of the provisions of this section is punishable by a fine of not to exceed $3,000, imprisonment for not to exceed five (5) years, or both."

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"614. Form of contributions of money."

(c) Section 591 of title 18, United States Code, is amended by striking out "and 611" and inserting "611, and 614".

SENATE RESOLUTION 133—SUBMISSION OF A RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. COOK (for Mr. SCOTT of Pennsylvania) on behalf of himself and Mr. MCCLELLAN submitted the following resolution:

S. RES. 133

Resolved, That Senate Resolution 56, Ninety-third Congress, agreed to February 27, 1973, as amended, is further amended as follows:

(1) In section 2, strike out "$4,067,600" and insert in lieu thereof "$4,093,600".

(2) In section 13, strike out "$143,000" and insert in lieu thereof "$169,000".

NOTICE OF HEARING ON WILDERNESS BILL

Mr. JACKSON. Mr. President, I wish to inform the Members of the Senate and the general public that the Subcommittee on Minerals, Materials, and Fuels, of the Senate Committee on Interior and Insular Affairs will hold an open hearing on S. 1010, a bill to amend the wilderness areas.

The hearing will be held July 18, 1973, at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

NOTICE OF HEARING CONCERNING NATIONAL RESOURCE LANDS

Mr. JACKSON. Mr. President, I wish to announce to the Members of the Senate and the general public that the Subcommittee on Public Lands of the Senate Committee on Interior and Insular Affairs will hold an open hearing on S. 424 and S. 1041, bills to provide for the management, protection, and development of the national resource lands.

The hearing will be held on July 23, 1973, at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

NOTICE OF HEARING ON THE DESIGNATION OF SNOW MOUNTAIN WILDERNESS AREA, CALIF.

Mr. JACKSON. Mr. President, I wish to announce to the Members of the Senate and the general public that the Subcommittee on Public Lands of the Senate Committee on Interior and Insular Affairs has rescheduled the open hearing on S. 114, a bill to designate 37,000 acres within the Mendocino National Forest, Calif., as the Snow Mountain Wilderness Area.

The hearing will now be held at 2 p.m. on June 29, 1973, in room 3110 of the Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

DAV GOES TO COLLEGE

Mr. HARTKE. Mr. President, the unique readjustment problems confronting veterans of the Vietnam era have been well documented. The amelioration of these difficulties seems to be hampered, however, by the distrust with which these young Americans often view the so-called establishment.

As chairman of the Committee on Veterans' Affairs, it has become apparent to me that organizations wishing to genuinely assist the current generation of veterans must assume an active stance. We must dispel the young veterans' cynicism and reach out in a sensitive, responsive, and tangible fashion.

I am particularly encouraged by the efforts of the Department of Indiana, Division of Disabled American Veterans, to encourage Vietnam veterans to help themselves. Last fall, the Indiana DAV chartered Indiana University campus chapter 35, which is actively participating in a broad range of campus affairs. In addition, meeting in statewide convention Saturday, June 23, 1973, the Indiana DAV elected a Vietnam-era veteran and a member of chapter 35 to the position of sergeant at arms. These two noteworthy steps speak far louder than a thousand well-intentioned press releases, and the response confirms that Hoosier veterans of the Vietnam war are listening.

The June 1973 article of DAV magazine describes the activities of Indiana University campus chapter 35. I hope that chapter 35 is the forerunner of similar groups throughout the country, and therefore ask unanimous consent that this article be printed in the RECORD.

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

"We're younger . . . and that's really the only difference between us and the disabled veterans of any other war. All of us have shared a singular experience, regardless of whether it was in World War I, World War II, Korea or Vietnam. There will always be that one common bond . . . and that's why we joined the DAV."

This statement is typical of the sentiments expressed by the young Vietnam veterans of DAV Campus Chapter 35, Indiana University, Bloomington, Indiana.

However, the one thing that sets this unit apart from other DAV chapters is the fact that it represents the only on-campus student chapter of the Disabled American Veterans. And, hopefully, it is the forerunner of similar DAV chapters from coast to coast.

The DAV student unit, organized this past September and chartered in January 1973, is an activist group already working to improve life for handicapped/disabled students at Indiana University's Bloomington campus.

One of their first official activities as a group was to make an architectural survey of the sprawling IU campus, then submit substantial recommendations for alteration of present structures and revision of planned construction to consider the environmental requirements of disabled and handicapped students within the campus community.

They have also asked that a handicapped student be placed on the campus planning commission. Another request they have made of the IU administration is for a preregistration program solely for handicapped students, and the establishment of a guideance counselor solely for handicapped students.

"What has brought us all together is our common bond of being war-time wounded," said Chapter 35 Commander Fred Taylor, a senior business administration major. "But, our biggest emphasis is on making the whole campus aware of the problems of being a handicapped college student—especially on such a huge campus—and on solving these problems to the extent that college will be a more satisfying experience for every handicapped student."

"We're fortunate in that the DAV organizational structure gives us an excellent forum from which to conduct our activities. We are now trying to organize non-veteran handicapped students so they can also make their contribution as a group to our campus society," Taylor said.

The DAV unit has already organized an intramural sports program exclusively for handicapped/disabled students. They intend to kick it off next year with a "crutch football" league, followed by a complete schedule of athletic activities.

While the disabled vets have access to Veterans Administration facilities, DAV Chapter 35 has recommended that Indiana University's Health Center establish physical therapy programs and set up a "no-waiting" policy for other disabled/handicapped students.

And, the chapter is preparing a handbook for handicapped students to be given away at registration time. It will contain lists of special parking areas, locations of elevators, best routes for wheelchair-bound students and faculty, special programs available to disabled/handicapped students, etc.

While most of the members of Campus Chapter 35 are of approximately college age and would get lost in the crowd at a rock concert, the chapter also contains student members who are in their thirties and forties.

They represent all services and they are both ex-officers and ex-enlisted men. Ethnically, they are like a movie rifle squad. There is at least one of every ethnic derivation. It is about as diverse a group as could possibly be put together, even on a college campus; but their camaraderie is strong and their common bond has given them real character as an organization and enough strength as a group that they have become an important force for progress on the campus in less than a year of existence.

"Don't make us look like goody goodies, though," said Senior Vice Commander John Thiel. "We like to have a good time as well as do good works. We like to drink beer and go to parties and yell loud at football games, just like everybody else on this campus," he said.

Before and after meetings, the interservice needling gets pretty heavy, and joshing of ex-officers by ex-enlisted men, and of former pilots by former infantrymen (and vice versa) is common. It is a group of men who really enjoy being with each other.

Hopefully, Campus Chapter 35 at Indiana University will set a precedent that will be followed on other campuses around the country. They are dedicated members of the Disabled American Veterans, and they have joined with the other chapters in the Department of Indiana to fight for the same goals and against the same obstacles that face all disabled veterans these days.

They are also infusing young, vigorous new blood into the organization to help it grow and thrive in the future. They have been welcomed into the DAV, both by the National organization and the Department of Indiana, as well as by their off-campus neighbor, Bloomington's Carry On Chapter 11.

Fred Taylor graduates this year, and after graduation he has applied to become a National Service Officer trainee in the DAV's Indianapolis office. As a rifleman with the 1st Air Cavalry Division in Vietnam, Taylor was wounded three times in combat.

At a meeting recently, his comrades presented him with a diamond DAV membership pin, a DAV distinguished service plaque, a diamond past commander's pin and a special citation for "exceptional distinguished service as founder and first commander of University of Indiana DAV Campus Chapter 35."

According to Chapter 35 treasurer Jan Janszen, who will serve as treasurer again next year, Fred was "really puzzled about where we got the money for these honorariums, especially since the Chapter's been broke all year."

Commander Taylor is married, and he and his wife, Sandy, have two children, Matt, 3, and Brandi, 2 months.

John Thiel will be Chapter Commander next year. Like Taylor, he was a member of the 1st Air Cavalry Division. He will be a newlywed at about the time this magazine is in the mail. His new wife, Judy, has a master's degree in business administration, one of the few ever earned by a woman at Indiana University.

Two of Chapter 35's members, Jan Janszen and Ian Johnson, both ex-Marines, were actually wounded in Vietnam combat before they were U.S. citizens. Janszen became a citizen while in the Navy's medical facilities, recuperating from his wound. He was a Polish national. Johnson, a citizen of Great Britain, has not yet been made a U.S. citizen.

Dave Rothgeb, an Air Force veteran majoring in public administration, has been a spark plug in the movement to establish continuing representation for handicapped students on University administrative and planning bodies. He also is interested in becoming an NSO when he graduates.

Willy Lackey, an ex-Marine, is majoring in child psychology. When he graduates, he wants to go back to his home town, Gary, Ind., and use his hard-won education to help ease racial problems in his strife-torn community. He is co-chairman of the Chapter's Social Committee.

Probably, the most unique thing about Chapter 35 is that every member is a potential leader. A complete list of every member and his accomplishments and capabilities would be much too long to list here.

If this chapter is any indication, there is a wealth of untapped membership and leadership potential for the DAV on America's campuses right now. And, the Disabled American Veterans intends to start taking advantage of this potential right away.

ARGUMENTS FOR ALASKA PIPELINE

Mr. STEVENS. Mr. President, again the Denver Post has reasserted its view that the trans-Alaska pipeline be built immediately. A recent Denver Post editorial offered many solid reasons why a trans-Alaska pipeline is important not only to Coloradoans, but the paper stressed the importance of a trans-Alaska route for the entire Nation.

Citing Canada's recent decision to control exports of gasoline and home heating fuel to the United States, the Denver Post properly suggests that a trans-Canadian route could also be subject to vague policies which could disrupt this Nation's flow of energy.

The Denver Post also points out that a trans-Canada route would not only increase the cost of the pipeline dramatically but that it would create a substantial delay in pipeline construction—a delay, I might add, that would place the United States in a dangerous position.

The Denver Post states that the proposed trans-Alaska pipeline is by far the best of the various proposals to augment U.S. energy needs in the immediate future.

I certainly agree with the Denver Post's view that the U.S. Senate should give early approval to legislation making a trans-Alaska pipeline possible.

I ask unanimous consent that the Denver Post editorial be printed in the RECORD for consideration by my colleagues who are concerned about how America can help meet its energy needs.

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

[From the Denver Post, June 18, 1973]

FUEL PINCH, DOLLAR CRISIS ARGUE FOR ALASKA PIPELINE

The U.S. Senate should give early approval to the bill authorizing construction of the Alaska pipeline. The project is by far the best of the various proposals to augment U.S. energy needs over the next few years.

Long delayed by environmental efforts, the pipeline project simply is in the national interest.

As we have said before:

Alaska's North Slope contains known reserves of oil and gas on a significant scale. In full production this field could yield through the 800-mile trans-Alaska line 2 million barrels of oil a day. Present U.S. daily consumption is 15 million barrels—a demand we are filling with great difficulty. Clearly, Alaskan oil is important.

U.S. imports from overseas, rising rapidly, pose a serious threat to our balance of payments and the value of the dollar. Developing new domestic sources is essential and Alaskan crude is proven; it is not hypothetical.

The alternative idea of joining with Canada in a vast intercontinental pipeline across Canada has been given some currency, much

of it by environmentalists concerned about damage to Alaska. The trouble with this idea is partly that Canada is not sure it wants such a pipeline.

Underscoring the doubtful nature of Canadian cooperation was an announcement from Ottawa on fuel exports last week.

Canada said it was putting controls on exports of gasoline and home heating fuel immediately. The object is to halt the drain to fuel-hungry U.S. users. Americans cannot criticize the Canadian intent—it is self interest. But it does suggest that a joint Canadian-U.S. pipeline would be subject to just such vagaries no matter how good our basic relationship with this northern neighbor.

The major enemy of the Canada plan, however, is delay. More than 10 years would be required for construction once such a plan were approved as against three or four for the Alaska line, which would go into construction immediately. Involved, too, is 28 trillion cubic feet of natural gas which can be moved out sooner if the Alaska line is built.

We don't think the U.S. economy can wait. There is much to be said for improved conservation, for learning ways of using less gasoline and heating fuel. Such methods must be pushed rapidly. But U.S. energy use also has escalated rapidly. So many daily functions depend on an adequate supply of petroleum and gas that our supplies must be augmented while we learn to live with the new realities. And even under tight restrictions on use, the Alaska supply would make sense as a protection against the vulnerability of imports from the Mideast.

So we recommend that the U.S. Senate vote favorably to authorize the Alaska line by legalizing the right-of-way requirement which a federal court cited early this year as a bar to construction. In urging this action we do not overlook the environmental fears. But we do believe damage can be minimized by careful construction. We believe, further, that any detailed examination of the alternatives will result in the same conclusion we have reached concerning the pipeline: build it—and soon.

THE OLDER AMERICANS

Mr. MONTOYA. Mr. President, I am pleased to call to the attention of my colleagues in the House and Senate a very excellent editorial from the Arkansas Gazette dated June 17, 1973, entitled, "The Older Americans."

I am sure that those Members of the Congress who served with the Honorable Brooks Hays remember him with great fondness and pleasure. Likewise, we all share a great pride in the leadership of our distinguished chairman of the Select Committee on Presidential Campaign Activities, the Honorable SAM ERVIN of North Carolina. A committee on which it is my pleasure to serve.

Mr. President, the vision and integrity of men such as former Representative Brooks Hays and Senator SAM ERVIN serve as an inspiration to us all. They have been guardians of the Constitution and kept their faith in our representative democracy.

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

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

TWO OLD AMERICANS

As the cameras roll on the Watergate hearings coverage and we look daily at the expressive visage of the chairman of the Select Committee, Sam J. Ervin, we keep going back in our memory to the picture of this same Sam Ervin campaigning at the side of Brooks Hays in North Carolina last fall in what Senator Ervin probably knew was a lost cause and what even Mr. Hays, infectious optimist that he is, probably guessed was a lost cause, considering the odds.

We are thinking now, as we thought then, that here is the Old America, two Old Americans. Being an old American has nothing to do with chronological age. Mr. Hays, as we in Arkansas know well, has always thought very young, indeed. So, we think, does Senator Ervin, as men of humor tend to. The two North Carolinians, the native and the adopted one, both are men of humor, then, and not only men of humor, but men of good humor. They are also men of character, and men who it appears were endowed by their very birth with "virtue" in the absolute meaning of the word, and, as present or former public servants, men possessed of all the civic virtues as well. These are men, in short, to whom "the honorable course" has never been thought of for an instant as an alternative course of action, but as the *only* course.

It was of course Brooks Hays, the expatriate Arkansan who could never get far from Arkansas in spirit even if he tried, who was the principal victim of the Little Rock "Troubles." When his name was called, he was there front and center, preaching the cause of sanity and moderation when sanity and moderation had all but fled the state—and then accepting the consequences of his courage and honesty.

Brooks Hays and Sam Ervin do not, as we know, see exactly eye to eye on what the Constitution does and does not guarantee to minority groups in America or on the precise best way of combatting prejudice in this country. But Senator Ervin is not a prejudiced man in that sense of the word or any other that we know. He is not even prejudiced against the sorry procession now passing in front of him, not as men. He is prejudiced, naturally, against all that he suspects that they have done and what he already *knows* they have done, but not against them as individuals.

It is usually a chancy thing to try to read character from a face. The worst of charlatans are the most plausible in the front they are able to put up. The veriest rogue and scoundrel frequently can look you unflinchingly in the eye even as he is lifting your coattails for the grab. But with Sam Ervin and Brooks Hays, there is no risk factor whatever in reading character from their faces. Old Americans, as we say.

Against them are the New Americans, men lacking in even the beginning of wisdom. Men lacking not only in wisdom, but even in simple knowledge. Men who know nothing, but were sure of everything and frequently *fanatically* sure. We have seen some of them on the screen lately, too, and seen them where they belong, which is on the other side of the bar from Chairman Ervin.

Comparisons really are invidious, aren't they.

RESOLUTIONS PASSED BY UTAH STATE LEGISLATURE

Mr. BENNETT. Mr. President, I have had transmitted to me a copy of a concurrent resolution of the Utah State Legislature (H.C.R. No. 2) pertaining to low cost housing, and a joint resolution of the Utah State Legislature (S.J.R. No. 6) requesting the President of the United States to relax restraints on the use of certain specific canine toxicants.

I ask unanimous consent that the resolutions and their letters of transmittal be printed in the RECORD.

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

STATE OF UTAH,
Salt Lake City, Utah, June 19, 1973.

Hon. WALLACE F. BENNETT,
Senator from the State of Utah, U.S. Senate, Washington, D.C.

DEAR SENATOR BENNETT: There is transmitted herewith a copy of H.C.R. #2, (Low Cost Housing Resolution), with certification by this office, as instructed by the Fortieth Session of the Utah State Legislature.

Sincerely,

CLYDE L. MILLER,
Secretary of State.
EUEDA C. MCCOY,
Assistant Deputy.

STATE OF UTAH EXECUTIVE DEPARTMENT
SECRETARY OF STATE'S OFFICE

I, Clyde L. Miller, Secretary of State of the State of Utah, do hereby certify that the attached copy of H.C.R. No. 2 (Low Cost Housing Resolution), is a true and correct copy of the original resolution as passed by the Fortieth Session of the Utah State Legislature, and signed by President of the Senate Warren E. Pugh and Speaker of the House Howard C. Nielson as appears of record in my office.

In witness whereof, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this third day of April 1973.

CLYDE L. MILLER,
Secretary of State.
EUEDA C. MCCOY,
Assistant Deputy.

HOUSE CONCURRENT RESOLUTION No. 2

A concurrent resolution of the 40th Legislature of the State of Utah, the Governor concurring therein, recognizing the problems relating to present housing subsidy programs and the need for suspension of them; recognizing the continuing scarcity of housing particularly housing for the poor; and recommending that early substitute programs be implemented

Be it resolved by the Legislature of the State of Utah, the Governor concurring therein:

Whereas, the President of the United States of America, recognizing the financial and political problems connected with existing housing programs and their failure to accomplish the desired objectives, has placed by Executive Order a suspension on several existing housing programs designed particularly to provide housing for the poor;

Whereas, the State of Utah is presently suffering from an extreme shortage of housing for low and moderate income families, as indicated by a .05% vacancy rate among low income housing; and state estimates indicate an immediate need for 30,000 new or rehabilitated units of housing for these residents; and

Whereas, many individuals and families are living in condemned housing or deteriorated housing which is unsafe and should not be inhabited.

Now, therefore, be it resolved, that the 40th Legislature and the Governor of the State of Utah urge the President and Congress of the United States to implement early substitute programs which will aid the low and moderate income people of the State of Utah and the United States of America to obtain adequate housing.

Be it further resolved, that the Secretary of State send a copy of this resolution to the President of the United States of America and each member of the congressional delegation from the State of Utah.

SENATE JOINT RESOLUTION No. 6

A joint resolution of the 40th Legislature of the State of Utah requesting the President of the United States to relax restraints on the use of certain specific canine toxicants

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

Whereas, the sheep, cattle and wildlife industries are a valuable source of food and fiber for the American public and also an important source of income vital to the economy of the State of Utah; and

Whereas, predation by coyotes has caused substantial losses of sheep and forced many sheep men out of the livestock business and is now threatening the entire sheep industry in Utah; and

Whereas, at times predation may become a limiting factor in wildlife populations; and

Whereas, a Presidential Executive Order dated February 8, 1972, restricted the use of chemical toxicants in predator control and which, combined with the prohibition in interstate shipments of chemical products registered for predator control by the Environmental Protection Agency has deprived livestock producers and game managers of their most effective, economical and highly selective predator control; and

Whereas, the Presidential order was issued contemporaneously with the Cain Committee Report without promised hearing and public review of the report; and

Whereas, no documented evidence exists to indicate that use of the chemical toxicant 1080 and coyote-getters reduces coyote populations to the point of making them an endangered species or poses on environmental threat through secondary killing of other species and, to the contrary, evidence indicates that such toxicant is highly specific for canines; and

Whereas, research is being conducted to ascertain alternative methods for predator control but at present, alternatives are not effective and future alternatives from research are at least four to five years away, and uncontrolled predation for that time is intolerable.

Now, therefore, be it resolved, by the 40th Legislature of the State of Utah that the President of the United States relax the strict ban on canine toxicants to provide that such toxicants may be used in properly supervised predator control programs in areas of urgent need on both public and private lands until such time as effective alternatives to predator toxicants are available.

Be it further resolved, that the Secretary of State send copies of this resolution to the President of the United States and to each member of the congressional delegation from the State of Utah.

CANADIAN NATIVE LAND CLAIMS—ANOTHER ROADBLOCK FOR THE TRANS-CANADA OIL PIPELINE

Mr. STEVENS. Mr. President, I have spoken several times before the Senate on the several problems that are likely to cause a delay in any trans-Canada oil pipeline. One of the many problems facing such a trans-Canada pipeline is the delay likely to be caused in the settlement of the Canadian Native Land Claims. Presently in progress is a major lawsuit in the Northwest Territories involving a claim by the Indian Brotherhood against 40,000 square miles of land covered by unsettled treaties. This massive area includes a significant portion of the trans-Canada oil pipeline.

On Wednesday, May 16, Justice William Morrow of the Northwest Territories Supreme Court ruled that a temporary land freeze imposed on the McKenzie Valley early in April shall be continued at least until the end of July. Moreover, he retained jurisdiction of the lawsuit and refused to transfer it to another Canadian court farther south in that country.

This has been widely interpreted as being a major victory for the Indian Brotherhood.

The president of the Indian Brotherhood, Mr. James Wah-Shee, has stated many times that Canadian Natives have a right to the settlement of their aboriginal claims, whether or not such claims are covered by treaties, and that the Natives are now beginning a major campaign to settle the issue in courts throughout Canada.

Mr. Wah-Shee spoke on May 4 before the French Foundation of Arctic Studies' Fifth International Congress in Le Havre, France. He spoke as a representative of the Native peoples north of the 60th parallel in Canada. He told the Fifth International Congress:

As the indigenous population we believe we have certain rights both moral and legal. We claim aboriginal rights, a legal concept that has been recognized for centuries in the Western World. These rights consist of land, hunting, fishing, trapping, resources and other rights. These rights are based on our use and occupancy of the land from time immemorial and certain other more contemporary legal decisions.

He continued:

. . . (W)e believe that the aboriginal rights that I outlined a moment ago are strong enough for us to delay indefinitely, through the judicial system, any proposed development.

You see, we cannot allow any more development in the North until we are assured that it will benefit us for many years to come. We are the owners of the land and we believe that we have this right.

He went on to state that for an oil pipeline to benefit the Canadian natives, they must be hired as employees from the outset. They must participate in royalties and also directly participate in the planing and decisions of developments.

He stated that the Canadian natives are willing to meet with the oil companies now and work out an arrangement.

The Northwest Territories lawsuit and the statement of the President of the Indian Brotherhood are two facets of a growing movement in Canada. Canadian Indians and other Natives across the country have come to the conclusion that their government must settle their aboriginal claims fairly. This is the same position that our Indians have taken and that this Government shares. A just settlement of the claims of American Indians requires a careful and lengthy deliberation and process of negotiation. The land claims of Alaska Natives were 15 years in the solving. Aboriginal claims of Indians elsewhere in the country have taken almost a century. Many are still unresolved.

While calling this matter to the attention of my colleagues, I wish to state that while I am sympathetic with these claims I do not mean in any way to judge the merits or eventual outcome of these Canadian land claims. That is not my place.

I wish to cite the situation only as an example of a process that is likely to take many years. It is likely to delay significantly any trans-Canada pipeline. It is still too soon to tell the eventual outcome of the Northwest Territories lawsuit. It is impossible to tell whether there will be an additional lawsuit blocking the trans-Canada pipeline. In fact it is likely such lawsuits would only be filed after applications were received for the pipeline. It is difficult to prevent a pipeline for which no application has as yet been received. It is even more difficult and speculative to comment on such lawsuits.

It is not, however, difficult to foresee the possibility, or even the probability of the commencement of such lawsuits. Mr. Wah-Shee himself has indicated this in the passages I have just quoted.

And the time for thorough judicial deliberation, legislation, and political and economic negotiations, will be time this country cannot afford to spend. We need Alaskan oil now.

Mr. President, I request unanimous consent that the following documents be inserted in the RECORD: An article from the Winnipeg Free Press of May 17, describing the Northwest Territories lawsuit; the statement by Mr. James W. Wah-Shee at the Fifth International Congress; and an article from the Saturday June 2 Toronto Star describing the many contemplated legal actions of Canadian natives throughout the country.

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

[From the Winnipeg Free Press, May 17, 1973]

INDIANS CLAIM VICTORY AS LAND BATTLE OPENS

YELLOWKNIFE, N.W.T.—The Indian Brotherhood of the Northwest Territories claimed a psychological victory Wednesday in the opening skirmish of a legal battle that will have far-reaching effects on economic development of the Northwest Territories.

Mr. Justice William Morrow of the Northwest Territories Supreme Court ruled that he will retain legal control of the case involving an attempt by the Indian Brotherhood to file a caveat—or declaration of interest—against 400,000 square miles of land covered by unsettled treaties. He also directed that the temporary land titles freeze imposed on the Mackenzie Valley in early April be continued until at least the end of July.

"It certainly is a psychological victory for the Indian people," said Brotherhood President James Wah-Shee after the case was adjourned until July 9. "This is the first action we've taken legally with respect to land on a large scale and we're happy with the way things have turned out."

A packed public gallery in the stuffy little courtroom in this Territorial capital heard complex legal presentations from six lawyers during the two-day hearing, with the main argument centred on Mr. Justice Morrow's jurisdiction.

The major contention by Crown lawyer Ivan Whitehall was that Mr. Justice Morrow had no jurisdiction to rule on the merits of the Indians' claims. The Crown wanted a ruling on the application to file the caveat with the land titles office while avoiding the broader issue of aboriginal rights which forms the basis of the Indians' case.

Mr. Whitehall argued that the broader issues in the dispute should be heard by a superior federal court.

Lawyers for the Indian Brotherhood said the judge has enough jurisdiction to deal with original rights claims. They want the case heard in a Northern court.

Both sides expected Mr. Justice Morrow to make a ruling on jurisdiction, but he reserved decision and ordered lawyers to be prepared to present him with all the evidence involved in the case in July.

Mr. Justice Morrow said he could not decide about jurisdiction until he heard the evidence from both sides.

"I have heard argument based on references to aboriginal rights, Crown title, Hudson's Bay land, the manner of the handling of patents and land grants, transfers involving the two governments—none of which is before me in concrete form as evidence."

"There has been very little agreement as to the true nature of these things."

The judge's decision brought an immediate protest from Mr. Whitehall.

"You are in fact entering on the merits of the case," he said. "Before you proceed any further, you should rule on the objections."

Mr. Justice Morrow replied:

"I agree that I am entering on the merits of the case. I appreciate your position entirely. At the same time, whether rightly or wrongly . . . I think these proceedings should be completed."

"I do not feel disappointed at this time to decide on jurisdiction alone. I may be doing the completely wrong thing in law and I may be subject to criticism from a higher judge—that's the risk of being a judge."

The judge also said he was reserving decision regarding filing of the caveat because if he upholds the Indians' application, it would impose a virtual land freeze on the N.W.T. "At the moment, I'm not prepared to take those risks."

Dr. Andrew Thompson, one of the Brotherhood's lawyers, said that if the caveat was filed, years of litigation could be required to remove it, stalling Northern development. With the temporary land freeze, any party experiencing hardship can apply to the court for an exemption, something which would require full-scale legal action in the case of a caveat.

"We want to get to the issues and that's what is happening," Brotherhood lawyer Gerald Sutton said. "Considering the experience of this court, it is the court we want to have our case heard in."

Dr. Thompson said outside court the case could affect National Energy Board hearings on a proposed natural gas pipeline from the Arctic Coast. The National Energy Board has maintained that applicants must show they have a right-of-way for a pipeline, he said.

STATEMENT MADE BY MR. JAMES WAH-SHEE, PRESIDENT FEDERATION OF NATIVES NORTH OF 60 DEGREES TO THE FOUNDATION FRANCHISE D'ETUDES NORDIQUES FIFTH INTERNATIONAL CONGRESS "ARCTIC OIL & GAS: PROBLEM & POSSIBILITIES" LE HAVRE, FRANCE, MAY 4, 1973

Mr. Chairman, ladies and gentlemen: I am speaking to you as a representative of the Federation of Natives North of Sixty. We are a group representing all indigenous people of the Canadian North and we have some international affiliations.

We would like to thank the meeting and especially Professor Mallory for the time that has been granted to us. We believe that we have a valid contribution to make here just as you have in our North.

We came here, as did the rest of you, to learn. For three days we have listened to your thinking concerning our ancestral home and how you are planning to exploit it. Now we feel the time has come for us to tell you of our hopes and plans so that we all might understand each other completely.

As you know, we are the indigenous people of the Canadian North. As the indigenous population we believe that we have certain rights both moral and legal. We claim aboriginal rights, a legal concept that has been recognized for centuries in the Western World. These rights consist of land, hunting, fishing, trapping, resources and other rights. These rights are based on our use and occupancy of the land from time immemorial and certain other more contemporary legal decisions.

Most of you here have been in the North and know first hand of the appalling economic, social and cultural situation our people are enduring. We did not chose to live this way, but through white migration. to our areas it has become difficult for us to follow our traditional life-styles. Now with the spectre of a pipeline, a road and all the attendant services it is apparent that for most of our people it will be impossible to live from the land any longer.

So we are faced with the future. Many people have told us that our future includes oil and a pipeline. Perhaps, but we believe that it will hold these things only if we have settled all our land claims satisfactorily.

We say this because we believe that the aboriginal rights that I outlined a moment ago are strong enough for us to delay indefinitely, through the judicial system, any proposed development.

You see, we cannot allow anymore development in the North until we are assured that it will benefit us for many years to come. We are the owners of the land and we believe that we have this right.

Until now much of what we have presented must sound sinister and familiar to you. This need not be so, for we are a reasonable people. We believe that the extraction of our northern mineral resources are perhaps in the best interest of the native people and the developers, if the native people are assured that our share of the wealth will allow our people to compete as equals with the rest of society.

For a pipeline to benefit us in the long run we must be employers as well as employees from the outset. We must be assured not only of enough royalties from resource extraction to guarantee a better life, but we also require direct participation in the planning and decisions of developments. This will ensure an active and not passive role for our children in our North.

To be more specific, the monies from a land claim settlement will enable us to take up for ourselves the development of a different economic system more in tune with our values and culture. We could also then assume responsibility for many of the services now being run by others, such as education, social assistance, and many other programs. Another and very important aspect of land settlement would be the exclusive parcels of land that we would control. We could use this land to ensure to some degree that our people will be able, now and in future generations, to still practice our hunting traditions. These lands could also serve to ensure the protection of many now endangered species of wildlife which we are concerned about.

To be blunt, a satisfactory land settlement would allow us to again become our own masters.

When our land claims are settled the question of title to land would be resolved and the developers could then move ahead assured of proper ownership and free from legal action. We also think that a satisfactory land settlement would allow us to cooperate and assist the developers in their planning.

In conclusion, we believe that successful land settlements could lead to a development of the North that would benefit us all. But we need our claims recognized and settled by our Government. We think that unless the oil companies wish to be caught in the middle of protracted court proceedings between ourselves and the Government, they should begin to meet with us. There is no question in our minds that with the moral, economic, and political support of the oil companies, our claims would be soon recognized and settled.

We propose then that the representatives of the oil companies present tell their companies that we are quite ready and willing to meet with them and perhaps even form some kind of committee to discuss all our mutual concerns.

We think that this kind of coalition would be to the benefit of everyone and would do much to make the dream of the North a reality.

Again, we thank you for the opportunity to speak to such a distinguished assembly.

[From the Toronto Star, June 2, 1973]

OUR NATIVES BEGIN WINNING FIGHT WITH WHITE MAN

(By Michael Lavoie)

OTTAWA.—Indian chiefs Leo Pretty-Young-Man and Jim Shot-Both-Sides will lead about 3,000 of their followers on to an empty stretch of southern Alberta plain later this month to celebrate the end of the 96-year-old dispute with the federal government.

On June 22, the Indians will pitch dozens of big teepees at Blackfoot Crossing on the Bow River, about 70 miles east of Calgary, and stage a three-day festival with singing, dancing, military bands and speeches.

Federal officials, possibly including Indian Affairs Minister Jean Chretien, will be there to hand over $250,000 to compensate for the failure to honor a treaty that was signed in 1877 between five Indian bands and the Northwest Territories government.

To Indian, Metis and Eskimo leaders across Canada, the celebration is significant because it marks the first time that the native people have been able to wring a major concession out of the federal government.

It is seen as a signal to Canada's 500,000 native people that they can finally assert their rights with some hope of success.

Native movements everywhere in Canada are now beginning to take eager advantage of an annual federal government fund of $2 million to finance research into their grievances against the white man.

Indians, Metis and Eskimos are going both to the government and to the courts to negotiate settlement of broken treaties or to seek legal title to lands that were never given up through treaties.

After about two years of research, results are now beginning to show. Indians could succeed in halting construction of the massive James Bay hydro-electric complex in Quebec and delaying development of the Mackenzie Valley corridor in the Northwest Territories with claims of control over vast expanses of land. In the high Arctic, the Eskimos are conducting a long-term land-use study with the government and are mounting a strong campaign to exert some control over oil and gas exploration.

COMPLEX CLAIMS

In the Yukon territory and British Columbia, Indian groups have confronted the government with complex legal claims to the control of thousands of square miles of land.

"There is probably not a band in Canada that is not working on a grievance of some sort," said Brian Pratt, director of the Indian Claims Commission, a Saskatoon-based federal agency for financing research into claims and arbitrating disputes between the Indians and the government. The Alberta settlement was the first for the recently appointed commission and it has "very great

significance" for the native people, Pratt said.

"They never before really believed that the government would respond to them," Pratt said.

"The native people are now getting a chance to regain some of their lost resources and to take responsibility for making their own decisions," said MP Flora MacDonald, Indian affairs critic for the Conservatives in the House of Commons.

The key issue in the growing debate is so-called aboriginal rights—the claim by many native groups to ownership and control over vast expenses of land that were never ceded to the crown through formal treaties. The native groups—some of them employing the best legal talent available—are using a 1763 declaration by King George III to back up their claims.

That declaration, according to Osgoode Hall law professor Peter Cumming, an expert on the issue guaranteed limited property rights. Indians kept their property rights with the restriction that they held them in communal ownership and could sell them to the crown only.

Last January, in the first fullscale test of the question, the Supreme Court of Canada dismissed the Nishga Indians' claim to 4,000 square miles of ancestral land around the Nass River in northern B.C. The judges were split 3-3 with the deciding vote cast against the Indians on a technicality.

ABORIGINAL RIGHT

The case is seen both by the government and the Indians as significant because three of the judges acknowledged that the Nishgas have some aboriginal rights.

Now, other cases are pushing the question even further.

These include:

James Bay: With the aid of $320,000 in federal grants, Quebec Indians and Eskimos are into the seventh month of a court battle with the James Bay Development Corp. to stop construction of the $6 billion James Bay hydro project. The natives have launched a study of the effects of the project on their fishing and hunting grounds and have asked Judge Albert Malouf of the Quebec Superior Court to grant an injunction halting the project until the study is completed.

They also claim that the project is unconstitutional because the 27,000 Indians and Eskimos never gave up aboriginal control over the land. Judge Malouf hopes to rule on the application before July 1 when work is scheduled to begin on construction of canals which will divert waters in a 37,000-square-mile drainage basin into La Grande River where four dams are planned.

Ottawa's financing the native side of the court case but is otherwise staying out of the issue.

Mackenzie Palley: Members of the Northwest Territories Indian Brotherhood, representing 7,000 Indians, claim they never really gave up control over 400,000 square miles of land because the federal government failed to carry out treaties that were signed some 200 years ago. The land includes the Mackenzie Valley, route of a proposed transportation corridor to the Arctic coast that would include a $6 billion gas pipeline, a road and possibly an oil pipeline.

Brotherhood president James Wah-Shee has warned bluntly that the Indians will try to block the Mackenzie Valley development until their land claims are settled. So far, he is succeeding. Two weeks ago territories Superior Court Justice William Morrow delayed until July any ruling on whether or not he has jurisdiction in the case. But meanwhile, he imposed a ban on all private land transaction, halting construction of some projects within northern municipalities.

Chretien says Ottawa wants to negotiate with the Indians but will take no action as long as the issue is before the court.

British Columbia: The Union of British Columbia Indian Chiefs, in a move separate from the Nishga claim, has used $118,000 in federal grants to produce a 62-page brief asserting native land rights over almost all of the 366,000 square miles of the province. The claim prepared by former Conservative justice minister E. Davie Fulton, says that the B.C. Indians never formally signed away their sovereignty over the land. The few B.C. treaties that were signed allowed for only minimal compensation—usually small amounts of cash or wool blankets worth less than $5 each.

The Indians say they are totally denied any land rights and are gradually losing their hunting and fishing rights. They say the federal government must accept the validity of the claim and agree on "suitable terms of reference" for negotiating a settlement. They seek a guarantee of hunting and fishing rights and an unspecified amount of money as compensation.

Chretien says Ottawa and the B.C. government are consulting on ways to respond to the claim. While the federal government has responsibility for Indian affairs, he said, it has no control over crown lands within a province's boundaries, "so it is not up to me to give them land."

Yukon Territory: The Yukon's 5,000 Indians and Metis are asking for a big share in the development of the territory, including land, cash settlements and a percentage of oil, gas and mineral profits. The Yukon brief, like the one from B.C., claims aboriginal rights over the land and asks for negotiations on a settlement without listing specific demands.

The only direct government action so far has been on the Yukon claim because there are no court actions involved and the land is all under federal jurisdiction. Chretien appointed a negotiating team in April.

The native land claims have become a touchy political issue in Ottawa with the minority Liberal government resisting pressure from the Conservatives and New Democratic Party to endorse a policy statement on the issue by the National Indian Brotherhood. The brotherhood, a group composed of provincial and territorial Indian associations, has produced a four-point statement demanding: settlement "to the satisfaction of the Indian people involved" of all aboriginal land claims; no further encroachment, without permission, into areas now occupied and controlled by Indians; renegotiation of all treaties that do not meet "adequate standards of fairness," and compensation for the loss of hunting, fishing and trapping rights.

"It's easy for the opposition parties to declare that they are in favor of these aims," Chretien said. "But I am responsible and I cannot give them the moon."

Chretien said Ottawa is willing to negotiate settlements with native groups which have no treaties, as in the Yukon, or with groups who claim their treaties were not honored, as in southern Alberta.

"But the circumstances vary too much from one part of the country to the next to make any blanket statement about land rights," he said.

"We just want the federal government to recognize the principle of aboriginal rights," said George Manuel, president of the Indian Brotherhood. "The struggle is not for money but for a better chance to improve our way of life."

Manuel said this means giving native groups a chance to participate in development of lands that they still occupy as well as restoration of hunting, fishing and trapping rights that have been curtailed by government regulations.

Wally Firth, the NDP Indian affairs critic, and Flora MacDonald charge that government response to native land claims—including statements by Prime Minister Pierre Trudeau—has led to a general public belief that the natives are seeking enormous sums of money.

"Anything that will break the poverty cycle among the Indians and Metis, improve education, reduce the jail population, increase hospital services and improve the general standard of living will save the Canadian taxpayers money," said Firth, a 38-year-old Metis and newly elected MP for the Northwest Territories. "Those are the goals of the native people."

Ottawa should be prepared to renegotiate treaties on demand "because in many cases the Indians didn't even know what they were signing," Flora MacDonald said.

She tried to force the Liberals to take a stand on the aboriginal rights issue before a Commons committee but had to watch them abstain from voting.

DIFFERENT PROBLEMS

While different problems apply in different sections of the country. "You can't recognize a principle piecemeal—either you are in favor of aboriginal rights or you are not," she says.

Indians are not seeking money as much as a chance to make their own decisions, she said. The fact that the native groups are researching and preparing their own claims, is at least as important as any benefits they will ultimately receive from them, she said.

"We have to let them do it on their own and make their own mistakes," she said. "We have been making mistakes on their behalf for too long."

In southern Alberta Chiefs Shot-Both-Sides and Pretty-Young-Man pursued their treaty claims, involving $2,000 in annual ammunition allowances that were never paid by the government, without the aid of federal research funds.

"We fought it without one cent of their money," said A. Webster MacDonald of Calgary, lawyer for the 12,000 Blackfoot, Blood, Sarcee, Stoney and Peigan Indians affected by the treaty. The negotiations took place over a 12-year period.

"Winning this one shows that the treaties speak and must be honored," MacDonald said.

SMALL INVESTOR ABANDONING STOCK MARKET

Mr. BENTSEN. Mr. President, I rise today to speak of a problem, which if not corrected, could have disastrous consequences for our free enterprise system.

The small investor—the backbone of Wall Street, in fact the strongest ingredient in our economic system—has been abandoning the stock market in ever-growing numbers in recent years. He has been replaced by a small group of large institutions which continue to expand their domination of our capital markets.

I am concerned by this trend, Mr. President, and I am convinced that the Congress must launch an immediate, thorough inquiry to determine the extent of it and to provide a solution.

Under our economic system, businesses use one of two methods to obtain needed outside capital. They can either borrow the money or they can sell equity in their companies through the stock market.

This system of selling an equity share in business has worked remarkably well throughout our Nation's history. Not only has it provided the capital to build one of the strongest, most vibrant economies

the world has ever known, it has also permitted millions of Americans to literally have a share in this economy through their investments on Wall Street.

However, since 1960, Mr. President, there has been a significant disturbing change in the makeup of the stock market. According to New York Stock Exchange figures the holdings of individuals relative to institutions has reversed itself. In 1960 individuals held over 60 percent of the value of stocks of this exchange while institutions held less than 40 percent. By 1971 individuals held slightly over 30 percent while institutions had increased their share to 68 percent. A recent article in Business Week indicates the figure for institutional trading is now over 70 percent.

Mr. President, for practical purposes, the small investor has left Wall Street. He has been replaced by the big institutions—the mutual funds, the insurance companies and the trust departments of banks, with their large pension funds and other capital to invest.

There are various explanations for the small investor's exits but I am convinced that it is due in part to a feeling that he cannot compete with the institutions for inside information. I also believe the small investor feels that trading by those large institutions creates distortions in the market over which he has no control and which may not even bear any relation to the soundness of the companies being traded. These institutions buy and sell stock shares in huge lots.

And it is disturbing to note that some of the biggest of these, the bank trust departments, are under little Federal supervision in their trading on the stock market.

Total stock holdings of banks today amount to $170 billion, compared to $45 billion for mutual funds. Yet, mutual funds are closely regulated by the Securities and Exchange Commission while the bank trusts are not.

Mr. President, the impact on the stock market of the huge investment funds available to these banks is tremendous. A handful of six or seven individuals, by their investment decisions, are in a position to exert a tremendous influence throughout the entire fabric of our economy.

The investment portfolio of one bank alone—the large Morgan Guaranty Trust—is reported to exceed $27 billion.

It is only natural, Mr. President, that managers of these bank trust funds—interested in protecting the money of their clients—would choose their investments carefully.

But I am concerned that the portfolio mangers of these bank trusts are unnecessarily concentrating their investments in a few companies—that they have bid the stock of a few favored companies to levels where their price-earnings ratio are excessive based on any historical precedent. Good companies are being ignored by a "herd psychology" favoring a select list which is purchased almost without consideration as to price.

Mr. President there is no requirement that these bank trusts either diversify or disclose their holdings. I am advised that one trust department now holds over 14 percent of the outstanding shares of Walt Disney, 10 percent of Polaroid and over $2 billion worth of IBM. And what individual investors remain in the market are following the lead of the institutions in order to survive.

The result is that today, while 10 percent of the stocks are doing quite well, the remaining 90 percent are not. Over the past year, in fact, the price of an average share of stock on both major exchanges has declined. And this has occurred even though personal income and the gross national product were on the rise.

What does this mean, Mr. President? It means that small and medium size companies which sell stock to the public—as well as newer companies which would like to sell public stock to obtain financing—are finding it harder and harder to attract investors.

They are unable to raise capital for expansion and the artificially low prices of their stock make them ripe for foreign takeovers.

Mr. President we have already seen some foreign companies taking advantage of the devalued dollar and the distorted market to attempt acquisitions—Brown & Williamson Tobacco of Great Britain has offered to purchase control of Gimbel Brothers, Inc.—Liquifin of Italy made an offer for control of Ronson—Slater Walker, Ltd.'s bid to control Franklin Stores. And there have been others.

Mr. President, unless changes are made in the current investment picture I am concerned we will see many of our companies acquired by foreign business interests and those which retain U.S. ownership will be subject to the control of a few institutions. For even those firms which presently enjoy the favor of the managers of the large investment funds must exert every effort to remain in their favor. With the kind of concentration of investment which exists today, a corporation cannot afford to have the institutions bailing out of its stock. Last fall one company fell out of favor with the institutions and the price of its stock fell $14 in a single half hour. I submit our economy cannot afford that kind of uncontrolled economic power.

For this reason I have asked both the Finance Committee and the Joint Economic Committee to examine this question. I am hopeful that the Congress will make a thorough public inquiry into every aspect of the present situation in our financial markets. The answer may lie in disclosure and diversification requirements and in limitations on the amount of disposition which can be made of a stock during a trading period. This might be accomplished through direct regulation or through the tax code.

But, our securities markets must be restored as a place where all sound business ventures can seek funds and where individuals can invest those funds with confidence. If we allow the U.S. securities market to become a place where only a select group of large institutions buy and sell the equity of another select group of large institutions, a great deal of American capitalism will be dead. Not only will the competitiveness of the securities market suffer, but the inability of small and medium size firms to raise equity for expansion will cause the competitiveness of our entire economy to decline. Should that happen it will not be just the investor and businessman who will be the loser. It will be the American consumer who suffers the greatest blow.

ENERGY, GOLD, AND OPEC

Mr. McCLURE. Mr. President, three of the major problems facing our Nation today—the energy crisis, inflation, and Middle East peace—are being brought even closer together, as shown by recent reports from the Arab press.

The Arab Fund for Economic and Social Development, a group of 16 Arab nations, has recently decided to investigate the establishment of a gold-based international Arab currency. The Dinar, as the currency might be called, would be one possible investment for the oil revenue which is expected to accrue to the Arab nations, amounting to billions of dollars over the next 15 years.

Kuwait's Finance and Oil Minister, Abdulrahman Al'Ateeqi, who made the suggestion at the group's second annual meeting held recently in Kuwait, said the fund could "issue bonds consisting of currencies or units of account tied to the price of gold at the date of issue and thus provide a guarantee of value and protection against the possibility of devaluation for the Arab investor who employs his funds in these bonds."

The suggestion parallels a recent statement by London banker Minos Zombanakis, who said that Arab oil-producing nations may insist that gold continue as the principal monetary asset. Mr. Zombanakis said:

> The real problem is to find an asset acceptable to the Arab nations or otherwise they may choose to keep their major asset—petroleum—in the ground. Gold could be the answer, especially if other countries besides the United States make their currencies convertible into gold.

In light of such statements, especially when viewed together with our current energy situation, I find it difficult to understand why the United States continues to stake its financial future on strengthening a system of special drawing rights, supposedly to replace gold as a monetary asset. As Mr. Zombanakis points out, such special drawing rights would be meaningless to nations that have continuous surpluses in their balance of payments, which the Arabs may quite reasonably expect in their position for some time to come, due to the growing dependence of the world's industrialized nations on Arabian oil.

Mr. President, I ask unanimous consent that two articles concerning these critical subjects, one from the Kayhan International and the other from the International Herald Tribune, be printed in the RECORD. I hope that they will help provide a better understanding of the critical energy/gold problem facing us

in the Middle East—a problem which will require more realistic economic policies than those presently endorsed by the administration.

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

PAN-ARAB CURRENCY PROPOSED

BEIRUT.—Billions of dollars in oil revenues that will flow into Middle East coffers in the next 15 years may form the basis for an international Arab currency tied to gold and called the Dinar. The Arab Fund for Economic and Social Development, which met last week in Kuwait, resolved to study this possibility as one way of investing the region's surplus funds.

Details of this resolution, one of five adopted by the 16-nation group at its second annual meeting, were not disclosed. But Kuwait Oil and Finance Minister Abdul Rahman Atiki suggested in a speech at the session that the fund bring together projects it is financing and other suitable investments "so that the Arab investor has the right to take a share in this reserve which will bring him a permissible profit from the net income realised on it."

Atiki said the fund could "issue bonds consisting of currencies or units of account tied to the price of gold at the date of issue and thus provide a guarantee of value and protection against the possibility of devaluation for the Arab investor who employs his funds in these bonds." The Kuwait official rejected Western charges that Arab oil states were responsible for the continuing monetary crisis that has led to the devaluation of the dollar and other currencies. (Kayhan International, Tehran, May 1, 1973)

ARAB OIL STATE MAY INSIST ON ROLE OF GOLD, BANKER SAYS

A London banker said today Arab oil-producing nations may insist that gold remain the principal monetary asset in any reform of the international monetary system. Minos Zombanakis, managing director of First Boston (Europe) Ltd., said in an interview that the United States may well have to reach some sort of accommodation with the Arab oil states on the gold issue in view of increasing U.S. dependence on Middle East petroleum. So far, the United States has contended that gold should be gradually demonetized. Mr. Zombanakis said that special drawing rights (SDRs), which are supposed to gradually replace gold as a monetary asset, have meaning only to countries that sometimes run deficits as well as surpluses in their balance of payments. Unless a country runs a defict, it would have no need for SDRs to finance it, he indicated.

He said that the Arab oil states could count on running surpluses indefinitely because of soaring world demand for their oil. "The real problem is to find an asset acceptable to the Arab nations," Mr. Zombanakis said, "or otherwise they may choose to keep their major asset—petroleum—in the ground. Gold could be the answer, especially if other countries besides the United States make their currencies convertible into gold." Asked whether he thought that Arab oil states had already been buying gold on the Zurich and London bullion markets in expectation of a big increase in the official price, Mr. Zombanakis replied that he doubted it.

He said the recent rise in very short-term Eurodollar rates indicates that professional speculators are financing purchases of gold and currencies. Such financing would not be necessary if the buying were coming from the Middle East, he asserted. The banker added that it is very probable that the Arab oil-producing states at present do not have as much spare cash as is widely believed. "It is obvious that in the future their revenues will be enormous, but the revenues aren't so big right now." He pointed out that oil revenues of Saudi Arabia, the biggest oil exporter, totaled only $2 billion in 1971, while those of Iran, the next biggest exporter, totaled $1.9 billion. He said the situation would change drastically by 1980, when Saudi Arabia's annual oil revenues are expected to range between $12 billion and $25 billion and Iran's revenues between $8 billion and $13 billion (International Herald Tribune, Paris, June 3, 1973.)

DROUGHT AND FAMINE IN WEST AND CENTRAL AFRICA

Mr. ABOUREZK. Mr. President, I wish to commend Senator HUMPHREY and the African Affairs Subcommittee for drawing the attention of the Nation to the drought and famine in the Sahelian region of West and Central Africa. I believe that Senator HUMPHREY's remarks to this Chamber about the food shortage and America's responsibilities should commend the special attention of the Members of the Senate, and I am pleased to associate myself with them.

As we learned in my hometown of Rapid City, natural disasters are merciless destroyers of lives and of communities. But terrible as the flood was, I can think of no natural terror more devastating than a famine—a famine which first kills children, old people, and others least able to defend themselves. And a severe famine can cause its most profound damage in a society of subsistence farmers and herdsmen, where one's wealth, social position, and self-respect, as well as nourishment, are intimately tied to the barren land and the always-scarce food it brings.

Not only is the famine now causing the deaths of thousands in Africa, but it is also bringing humiliation to the proud and self-reliant people whose source of life has always been the countryside they cultivated or grazed, people who may survive the immediate crisis, only to find their homelands useless for keeping them alive in future years, with no harvests or herds to provide for the future.

There is a further serious problem in this particular drought area, because it is a perpetually dry region just south of the Sahara. The desert has been measurably expanding into this area, making less and less land habitable for the growing population. As the land of the Sahel dries up, herdsmen will be grazing their cattle farther and farther south. Such grazing, often overgrazing, accelerates the deterioration of the land and the advance of the desert. This vicious circle can be broken only by the infusion of food and money to feed the people for this year and to reclaim the land of the Sahel for future productivity.

As Americans, this famine should concern us because we have grain sitting on roadsides and in storage bins waiting for boxcars to move it to ports and markets. And this crisis should concern us because we have grain sitting in boxcars and warehouses waiting for ships to transport it around the world to fulfill trade agreements. The grain companies, the shippers, the middlemen could do a real national service by expediting their profitable transactions and diverting some of their grain to those who are hoping with their lives that some of it will reach them soon.

The irony of rotting grain where it is plentiful, and starving people where it is not, has been recognized many times before in this Chamber, and many commendable efforts have been made through Public Law 480 and individual relief efforts. I want in no way to disparage these acts of compassion and magnanimity. But do we need still another famine, another epidemic or earthquake or flood to jar our consciences to make available more of our wealth and resources to those who need it desperately and immediately?

RESOLUTIONS BY NORTHWEST PUBLIC POWER ASSOCIATION

Mr. STEVENS. Mr. President, I recently received a series of resolutions adopted by the Northwest Public Power Association that I believe, in light of the current energy crisis, are worth our every consideration.

Heading this list of resolutions in importance is No. 73–12 which strongly endorses immediate construction of the trans-Alaska pipeline, and urges Congress to take all action necessary to expedite this construction.

In addition to this new endorsement of the Alaska pipeline, there is a resolution—No. 73–1— requesting Congress to appropriate funds for several authorized and proposed Federal power projects in the Pacific Northwest; a resolution—No. 73–2—requesting congressional action to require release of funds appropriated for REA loans, and for hydroelectric and multiple purpose river development projects in the Pacific Northwest; a resolution—No. 73–7—asking that Congress establish an Electric Research Agency to coordinate electric power research; a resolution—No. 73–8—requesting Congress to enact a national energy policy to promote and guide the discovery, development and efficient utilization of all forms of energy and last a resolution—No. 73–4—urging Congress to enact the legislation necessary to encourage and support the exploration and development of geothermal resources.

I request unanimous consent for the printing of these resolutions in the RECORD.

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

RESOLUTION NO. 73–12 OF THE NORTHWEST PUBLIC POWER ASSOCIATION

ALASKA PIPELINE

Fuel shortages in America have become apparent and critical, contributing to an energy crisis of alarming proportions.

Increasing reliance on imports of foreign petroleum to meet the nation's energy needs can only contribute dangerously to the United States' balance of payments deficit, have an adverse impact on world economic relationships, and threaten the stability of the dollar in world markets.

Therefore we vigorously endorse immediate construction of the Alaska Pipeline from Prudhoe Bay to Valdez and urge that Congress take any necessary action to expedite

construction of that pipeline to make available to the United States increased petroleum resources from domestic fields.

RESOLUTION NO. 73–1 OF THE NORTHWEST PUBLIC POWER ASSOCIATION

FEDERAL POWER PROJECTS

Federal Power Projects which are under construction, authorized and proposed are necessary on an accelerated schedule to meet anticipated electric power requirements in the Bonneville Power Administration marketing area, to provide development of the resources of Alaska, and to assure non-discriminatory transmission of federal power to preference customers.

We urge, therefore, that Congress appropriate funds for:

1. All projects recommended by the President for construction and operation of facilities of the Bonneville Power Administration, Alaska Power Administration, Corps of Engineers and Bureau of Reclamation during fiscal year 1974 in the Pacific Northwest to keep these vitally needed facilities on schedule.

2. Accelerated planning, construction and operation of the Second Powerhouse at Bonneville Dam and additional generators at Little Goose, Lower Monumental and Lower Granite Dams.

3. Initiation of studies for future development of hydroelectric potential of the Upper Susitna River in Alaska.

RESOLUTION NO 73–2 OF THE NORTHWEST PUBLIC POWER ASSOCIATION

RELEASE OF APPROPRIATIONS

We believe that the Congress of the United States reflects the will of the public and exercises sound fiscal judgment when it appropriates funds for REA loans, and for hydroelectric and multiple purpose river development projects in the Pacific Northwest. The Pacific Northwest is faced with critical power shortages because of withholding by the Executive Branch of Government of Congressionally appropriated funds.

We dispute the judgement and the Constitutional right of the Executive Branch of Government to arbitrarily withhold appropriated funds from expenditure when they are vitally needed for the public purposes for which they were appropriated.

We most strongly protest, therefore, such withholding of funds and deliberate delay of project completions by the federal Office of Management and Budget; and we urge Congressional action to require release of such funds for immediate utilization to build projects for which appropriated.

RESOLUTION NO. 73–7 OF THE NORTHWEST PUBLIC POWER ASSOCIATION

ELECTRIC POWER RESEARCH PROGRAM

We believe an adequate supply of clean electric energy to be necessary for preservation of the environment, the economic survival of the nation, and a quality life for all of the people.

We recognize, however, that present technology does not permit development of the necessary electric power supplies without some impact on the environment and depletion of natural resources.

We believe a massive research program must be undertaken at once to accelerate development of the Fast Breeder Reactor, the Nuclear Fusion Process, Magnetohydrodynamics, Geothermal Power Generation, Solar Conversion, and all other potential sources of clean and efficient electric energy.

We believe all electric consumers and all people will benefit from development of new and better technologies for electric power production and transmission; and we recognize present inadequate research programs are financed by only some power consumers through voluntary participation by their individual electric utilities.

Although we support the voluntary Electric Power Research Institute as an existing program, we believe the necessary research programs can be coordinated and financed only with required participation by all elecrtic utilities, and therefore, all electric consumers.

We endorse, therefore, the enactment of a federal energy surcharge on electric bills, applied equitably to all ultimate consumers, to provide a trust fund for research in electric power generation, transmission and distribution to develop more efficient means of providing and utilizing electric energy.

We propose that Congress establish an Electric Research Agency, governed by a joint public and industry commission, to administer the electric research funds provided by the public through such surcharge on their electric bills.

RESOLUTION NO. 73–8 OF THE NORTHWEST PUBLIC POWER ASSOCIATION

NATIONAL ENERGY POLICY

We recognize that the economic and social well being of the American people depends upon an adequate and reliable supply of energy.

The energy resources of the nation, however, are becoming in ever shorter supply because of inefficient development and utilization, because of monopolistic control of basic energy sources, and because of inadequate technology and facilities for coordination of energy resources.

We believe these energy problems are of such magnitude that a National Energy Policy must be conceived and implemented to assure the American people adequate and reliable energy and to conserve their environment and their natural resources.

We urge the Congress, therefore, to develop and enact a National Energy Policy to promote and guide the discovery, development and efficient utilization of all forms of energy.

We further urge that such National Energy Policy provide for coordination and cooperation with Canada and Mexico to assure the best conservation, development and use of the energy resources of all of the North American Continent.

RESOLUTION NO. 73–10 OF THE NORTHWEST PUBLIC POWER ASSOCIATION

GEOTHERMAL RESOURCES

We anticipate that geothermal resources shall be a significant source of energy in the future and that geothermal energy should be developed in a way which provides the most possible benefits for the most people.

We encourage and support the exploration and development of geothermal resources by public and cooperative power entities and by the federal government in order to bring the benefits of such resources to the public at the lowest cost and consistent with sound conservation practices.

We believe that geothermal resources on public lands, especially, are a public resource and should not be exploited for private gain.

Therefore, we urge the Congress of the United States to enact laws which require that preference to leases on public lands for development of geothermal resources be given to public bodies and cooperatives.

COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT AMENDMENTS OF 1973

Mr. CRANSTON. Mr. President, I would like to express my full support for S. 1125, the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973," as passed by the Senate last week. I would also like to express my admiration for Senator HUGHES' leadership in focusing national attention upon the problem of alcoholism, through developing this legislation initially in 1970, and by pursuing its extension and expansion this year.

The impact of the disease of alcoholism in this Nation has never been determined accurately. What we do know is that it is widespread—of epidemic proportions—and that the statistics we do have represent an iceberg-like view of the magnitude of the problem. Each victim of alcoholism touches upon many lives, and the nature of the illness is such that its social consequences have a tremendous ripple effect in addition to those so tragically affected directly.

Alcoholism was described as the Nation's No. 1 health problem by representatives of the Department of Health, Education, and Welfare in Senate hearings in 1969 and 1970, and the 1971 report "Alcohol and Health" released by that Department in 1971 estimated that there were 9 million alcohol abusers or alcoholics in this country at that time.

Recent reports of the increasing popularity of alcohol abuse by teenagers provide a frightening warning that these statistics may very well increase significantly in future years.

The legislation adopted by the Senate June 21 would provide the means whereby the programs for contract, project, and formula grants to support treatment and rehabilitation programs for alcohol abusers could be continued for an additional 3 years, and improvements would be made in existing program authorities.

Mr. President, I have received letters from two of the counties in California, San Diego and Los Angeles, which together have probably the greatest population concentration in the Nation. Both of these counties through their boards of supervisors have taken a strong stand in support of S. 1125. I would like to point out that in each of these cases, the counties have already initiated strong locally supported programs for treatment and rehabilitation of alcoholism. They are not sitting back waiting for someone else to solve the problem for them. They have utilized their own resources to the fullest extent in providing effective programs to prevent and treat alcohol abuse.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the close of my remarks the letters received from representatives of the county of Los Angeles and the county of San Diego.

I am pleased to see that the Senate has moved to approve this vital legislation, and I look forward to similar action in the House.

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

COUNTY OF SAN DIEGO,
BOARD OF SUPERVISORS,
June 15, 1973.

HON. ALAN CRANSTON,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR ALAN: On June 5, 1973, the San Diego County Board of Supervisors unanimously endorsed a resolution in support of S. 1125, the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973." An identical resolution was adopted by the San

Diego County Alcoholism Advisory Committee on April 26, 1973. A copy of this resolution is enclosed for your reference.

At present more than 5,000 patients have utilized our present alcoholism programs which include a Men's Detoxification Center and an Alcoholism Rehabilitation Clinic. However, it is presently estimated that there are 80,000 alcoholics in San Diego County. According to the National Council on Alcoholism, every problem drinker adversely affects an average of four other persons in his family, and more than sixteen friends and business associates in the community. These people therefore affect more than 320,000 others in our County.

Our County's proposed Fiscal Year 1974 Budget recommends a total expenditure of more than one million dollars for alcoholism programs. $429,000 of this money would be derived from local taxes. If S. 1125 is enacted, our present programs, plus our proposed Women's Detoxification Center and expanded rehabilitation program services, would be eligible for the Federal support authorized by the bill in the nature of contract and project grant authority of $90 million in Fiscal Year 1974, $100 million in Fiscal Year 1975, and $110 million in Fiscal Year 1976.

S. 1125 also recommends that alcoholism be treated as a public health problem by delineating standards for State treatment programs in order to make the transition from a criminal justice approach to a community care approach for the treatment of alcoholics. It is my understanding that the bill will be considered by the Senate next week, possibly on Tuesday, June 19, 1973. I urge you to strongly support the passage of this legislation.

Sincerely,

ROGER F. HONBERGER,
Deputy Administrative Officer.

SAN DIEGO COUNTY ALCOHOLISM ADVISORY COMMITTEE

RESOLUTION

Whereas: Alcoholism is the Nation's leading health, social and law-enforcement problem.

Whereas: The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act Amendments of 1973 (Senate Bill 1125), introduced by Senator Harold Hughes, represents constructive goals to alleviate alcoholism in the United States and its possessions.

Whereas: Alcoholism Programs funded under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 are providing valuable alcoholism rehabilitation services for the communities they serve.

Whereas: Alcoholism programs funded under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 have aided thousands of alcoholics in returning to active and productive lives.

Now therefore be it resolved, that the San Diego County Alcoholism Advisory Committee and it's members do approve and endorse the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act Amendments of 1973 and support and encourage Senator Hughes and other members of Congress who advocate the continuance, expansion and improvement of Alcoholism programs. And further resolve that the County be encouraged to pass similar resolutions and that said resolution be conveyed to Congress and the President by the County.

ALCOHOLISM LEGISLATION

Sen. Harold Hughes (D-Iowa) on June 5 won unanimous support on the Senate Labor and Public Welfare Committee, to continue the first national effort to combat the devastating effects of alcohol abuse. This action on S. 1125 (the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973") was a clear expression of nonpartisan interest in maintaining and improving programs being implemented at county, state and federal levels under the direction of the National Institute on Alcohol Abuse and Alcoholism.

S. 1125 will come up for a Senate vote in the very near future. NACO fully endorses this legislation, and it is our hope that Rep. Paul Rogers (D-Fla.), Chairman of the Subcommittee on Public Health and Environment, and his colleagues of the House Interstate and Foreign Commerce Committee will act quickly to pass comparable legislation. It is our further hope that this crucial legislation will be signed into law by the President by early summer.

Actions by Congress and Administration to continue the programs started with initial legislation in 1970 have been delayed far too long. The initial legislation established the National Institute on Alcohol Abuse and Alcoholism, and for the first time in 1972 provided project support to counties for the implementation of a broad range of long overdue programs for people with alcohol drinking problems. State formula programs also were initiated at the same time. The institute, through both project and formula programs, has been highly responsive to the needs of counties. It has provided the kind of focal direction from the federal level that is required to mobilize local attention and efforts on a grossly neglected problem that effects, directly or indirectly, nearly every citizen.

Some highlights of S. 1125 important to counties are provisions continuing through 1976 the formula and project grant authorities; establishing a special grant for States which provide legal basis for a comprehensive community care approach; giving the Secretary of Health, Education, and Welfare the flexibility to locate the National Institute on Alcohol Abuse and Alcoholism within HEW where it can be most responsive to the needs of people in communities; providing the high level personnel needed to carry out this national responsibility; and reducing discrimination of people with alcohol drinking problems when seeking medical care from hospitals.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
June 15, 1973.

HON. ALAN CRANSTON,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR ALAN: In the County of Los Angeles there is an alarming increase in the incidence of the tragic problem of alcoholism. The County's interest in the prevention and treatment of the problem is of such primary concern that we have committed approximately 75 million dollars in funds to rehabilitate alcoholics. At the present time, the County of Los Angeles has two applications totaling over one million dollars that have been approved by NIAA. However, since the President's budget deleted these funds, these programs cannot be funded.

Presently, the County of Los Angeles operates a 60 bed unit in the County USC Medical Center for the treatment of acute alcoholics. In addition, the County operates a 100 bed unit in the Long Beach Hospital for sub-acute alcoholics, many of which come from the Medical Center. Here efforts toward rehabilitation are begun. In the Antelope Valley area the County operates a 700 bed unit for homeless, male alcoholics. There are approximately five out-patient clinics throughout the County. Long Beach and Pasadena each have one such clinic by contract with the County.

In an effort to continue its alcoholic rehabilitation programs, the County is currently developing a plan to rearrange financing from its mental health funds.

The County feels that a more desirous mechanism for the funding of alcoholism programs is S. 1125, the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973".

I understand that this bill, S. 1125, is tentatively scheduled for Senate consideration the week of June 18, 1973.

I urge you to strongly support this legislation.

Sincerely,

JOSEPH M. POLLARD,
Legislative Consultant.

S. 1125, THE COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT AMENDMENTS OF 1973

Mr. MATHIAS. Mr. President, as a cosponsor of S. 1125, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973, I wish to pay a compliment to my colleagues who voiced their support for this bill last week. The passage of S. 1125 is due, in large measure, to the diligent efforts of the chairman of the Subcommittee on Alcoholism and Narcotics, the distinguished senior Senator from Iowa, HAROLD HUGHES, and I also wish to commend him and the members of his subcommittee at this time for their efforts.

S. 1125 will extend through fiscal year 1976 the State formula grant program originally authorized by the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, Public Law 91–616, which I was also pleased to have cosponsored. S. 1125 also extends the contract and project grant authority of the act for fiscal years 1974, 1975, and 1976 at the authorization levels of $90 million, $100 million, and 110 million, respectively. It provides incentives for States to adopt the Uniform Alcoholism Intoxication Treatment Act; it prohibits hospitals from adopting discriminatory admissions policies against alcoholic persons; and it strengthens the capacity of the National Institute on Alcohol Abuse and Alcoholism to carry out its mission.

The Senate's action on S. 1125 is living proof that today in America, there is a better understanding and awareness of the problems of alcoholism and alcohol abuse than ever before in our history. I am sure that all Members of this body are as grateful as I am to see that we are finally leaving the era in which a large segment of our society equated alcoholism and alcohol abuse with moral degeneration and sinful behavior. More and more Americans, as recent polls have shown, are now beginning to regard alcoholism as a disease—a disease which should be handled as a public health problem rather than a matter to be dealt with under criminal law. And I am certain that the landmark Public Law 91–616, the alcoholism bill of 1970 represented a giant step forward toward national recognition that alcoholism is an illness with an inherent potential for prevention, control, and recovery.

To gain some further insight into the dual problems of alcohol abuse and alcoholism, we need look no further than the Department of Health, Education, and Welfare's first special report to the Congress on alcohol and health. This report confirmed what many of us have known or suspected all along: That alcohol is the most abused drug in the United States—that the extent of alcohol-related problems in America is increasing and has, in fact, reached major proportions. We know that among the more than 95 million drinkers in this country, about 9 million men and women are actually alcoholics or abusers of alcohol. These statistics, however, do not take into account the fact that the lives of many more millions are adversely affected by living with someone who has. One in five persons surveyed by Harris reported that someone close to them—most often a family member—drinks too much.

Mr. President, it is a sobering fact, that industry, business, civilian government, and the military pay a price of $10 billion each year as a result of lost work time, medical expenses, impaired job efficiency, and accidents incurred by employees suffering from alcoholism. The facts of the case are that nearly 4.5 million American workers suffer from alcohol-related problems, 240,000 of whom are employees and their families. This means, in effect, that some $15 billion are drained from the economy each year due to alcoholism and alcohol abuse.

There is one additional expense we incur in our society, however, that cannot be quantified so easily or put through the rigors of cost-benefit analysis. No way has yet been found to set a fair price on the value of human life. How can we estimate the worth of those 27,000 lives that were lost last year in alcohol related traffic accidents—accidents which snuffed out the lives of drivers, passengers, and innocent pedestrians? Who can possibly gauge the cost of alcoholism and alcohol abuse to our society when more than half the individuals involved in fatal auto accidents each year have significant amounts of alcohol in their bloodstreams? But this we do know. That alcohol-related accidents cause injuries annually to half a million people, that alcohol-related accidents result in several hundred thousand arrests, that alcohol-related accidents carry a pricetag of more than $1 billion for property damage, insurance costs, and medical services.

This tragic problem which takes its toll in death and destruction is outrageous, shameful and most of all, absolutely unnecessary.

Mr. President, the question then is not whether this Nation can afford to support the attack on alcoholism at a meaningful level, but, rather, can we afford not to make a prime investment in alcoholism prevention, control, and treatment. I sincerely hope that the House now will promptly consider and pass this bill and that the President will see fit to sign it into law without delay.

Mr. President, I believe I would be remiss if I failed to acknowledge the incredible work that has been accomplished by the dedicated personnel of the National Institute on Alcoholism and Alcohol Abuse in Rockville, Md., and the hundreds of able, public spirited citizens in Maryland, both at the State and community level who are working in behalf of their fellow citizens who still suffer from this disease. It has remained for them to transfuse the sense of the ideas and policies developed in Congress into dramatic and effective programs.

Last year, over 205 alcoholism projects in poverty areas and 47 Indian poverty projects were transferred from a well staffed Office of Economic Opportunity to the NIAAA. While the authority and responsibility for these programs were shifted with minimum difficulty, the staffing necessary to administer these programs at the national level in NIAAA has never reached the desired level. The committee report accompanying S. 1125 aptly represents my view with regards to these poverty programs and their status within the NIAAA:

> Any sound analysis of the causes and conditions of poverty must recognize the high incidence of alcoholism as both a cause of unemployment, family dissolution, and dependence on public assistance, and a condition often induced by the frustration and despair arising from crowded and inadequate housing, lack of education and opportunity, and other forms of deprivation, which together constitute poverty in this Nation.
>
> The Committee is especially concerned over the fate of the transferred projects to an agency whose mandate is to serve all alcoholics rather than to concentrate solely on serving those who are poor. These projects must, of course, meet appropriate standards of administration and performance. However, the Institute should make every possible effort to assist them to meet those standards, taking into account the difficulties experienced by project administrators whose experience in working with governmental agencies or other institutions may be limited.

I commend the staff of the Division of Special Treatment and Rehabilitation Programs of NIAAA for the outstanding manner in which they have discharged their responsibilities for the poverty and Indian programs in the face of severe staff shortages, and the enormous, competing, yet, legitimate demands for program guidance and support from projects across the country. We should be particularly impressed with the leadership supplied by Dr. John Wolfe, the division director, and Mr. Fleetwood Roberts, the program director of the Community Alcoholism Services poverty programs; for it is largely through their efforts that the poverty programs are thriving today.

If the House of Representatives agrees with this body and passes S. 1125, and the President signs this bill into law, as I hope he will, the Congress can rest assured that the NIAAA, the State and community alcoholism agencies, and the hundreds of thousands of Americans who are actively engaged in the fight against alcoholism will give the American taxpayers the best return on their investment-restoration and preservation of human beings.

TRIAL OF PERSONS CHARGED WITH GENOCIDE

Mr. PROXMIRE. Mr. President, one of the arguments frequently raised against ratification of the Genocide Convention is that the country of which the accused is a citizen would not have jurisdiction to try him of his crime. This misconception stems from the wording of article VI:

> Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Thus under a strict interpretation of this article, only the country in which the genocide was carried out may prosecute.

CONCURRENT JURISDICTION

In reality, however, the theory of concurrent jurisdiction holds true. This means that two nations, not one, would be permitted to charge a person with the crime of genocide: The nation in which the genocide was carried out and the nation in which the accused holds citizenship. In the 1973 report by the Senate Foreign Relations Committee, it was brought out that—

> A number of nations, particularly colonial powers, have consistently asserted the right to try their own nationals for crimes committed outside their territory. Even the United States in certain limited areas—counterfeiting, theft of government property, treason, antitrust violations—has exercised jurisdiction over its citizens for acts committed abroad.

In order to make this point emphatically clear, the committee recommended the following understanding to the Senate:

> That the U.S. Government understands and construes article VI of the convention in accordance with the agreed language of the report of the Legal Committee of the United Nations General Assembly that nothing in article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

Once more we find that, upon closer investigation, one of the arguments commonly used to argue against ratification of the treaty is groundless. I urge my colleagues to act without further delay and support the effort to ratify the Genocide Convention.

PHILIPPINES BAN ON CERTAIN EXPORTS

Mr. TAFT. Mr. President, the Philippine Government has recently decided to ban exports of rattan poles and narra logs. The ban is effective immediately, except that existing contracts will be honored.

I view this action as having extremely serious consequences. An embargo on exports is just as protectionist in nature as a halt in imports, which would be more immediately recognized as protectionist by many observers. In the case of the recent Philippine action, the interests of the United States are involved directly, because the United States imports millions of dollars' worth of the goods falling under the embargo and several thousand jobs in this country may be affected.

I realize that the domestic price of the rattan poles and narra logs, as well as

the possibility that the increased demand resulting from foreign consumers would effect conservation, must be considered by the Philippine Government. Nevertheless, action of this type should only be called for in a quite severe situation. For that reason, I was reluctant to vote for export controls on our logs in the Banking, Housing and Urban Affairs Committee even though some estimate that the price of softwood logs has risen 56 percent during the last 2 years. The control measure which I finally voted for was a slight limitation rather than an absolute embargo.

I hope that the Philippine Government will reconsider the appropriateness of the export ban carefully. Of course, that government must also consider the possible negative effects on foreign trade of the embargo action. Not only will the income from exporting the rattan poles and narra logs immediately be cut off, but it seems possible to me as well that the gains which the Philippine products have already made in the American market might be nullified to a great extent.

SENATOR STEVENSON'S STATEMENT BEFORE THE OIL POLICY COMMITTEE

Mr. ABOUREZK. Mr. President, on June 13, Senator STEVENSON, of Illinois, testified before the Oil Policy Committee's public hearings on crude oil and product allocation. His subject—the subject of the hearings—was the gasoline shortage, and particularly how the voluntary allocation program which the administration established pursuant to the Economic Stabilization Act was working Senator STEVENSON surveyed the voluntary program in his own State of Illinois, and could only conclude that—

It is simply inconceivable to me that anyone, including the majors, could claim the voluntary program is working in Illinois.

Senator STEVENSON exhorted the Oil Policy Committee to abandon the voluntary program in favor of an effective and equitable mandatory allocation program. He stated that if the Oil Policy Committee failed to act, Congress as a whole would, noting that the Senate had already passed S. 1570 on June 5.

Senator STEVENSON also suggested that—

Circumstantial evidence supports the conclusion that the major oil companies are using the fuel shortage they helped create to drive out their competition.

Senator STEVENSON cited the facts constituting this circumstantial evidence in some detail.

I ask unanimous consent that the full text of Senator STEVENSON's remarks be inserted in the RECORD, so that we can all have the benefit of reading in full his informed remarks on this subject.

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

STATEMENT BY SENATOR STEVENSON AT THE OIL POLICY COMMITTEE'S PUBLIC HEARINGS ON CRUDE OIL AND PRODUCT ALLOCATION, GSA AUDITORIUM, WASHINGTON, JUNE 13, 1973

There is more at stake here today than the question of whether the Administration will exercise the authority given to it six weeks ago by the Congress to institute a mandatory allocation program for petroleum products. The energy crisis is rapidly becoming a crisis of confidence in a government which, at best, stands by while both gasoline prices and the profits of the major oil companies soar to record highs.

My remarks are confined to the present emergency though I believe that the only acceptable solution requires energy conservation and the development of additional sources of energy for the long term energy requirements of the nation.

Recently completed market studies at Northwestern University and the Georgia Institute of Technology confirm what many of us have long suspected; the greater the concentration of independent gasoline retailers in any given area, the lower the average price charged by major branded dealers in that area. In every case, under varying conditions, including over-supplies and shortages in both large and small markets, the prices charged by major stations were always lower if independent stations were present in the same market.

Independents "keep the majors honest." Yet, since the first of this year, more than 1,500 independent gasoline stations have gone out of business, and 1,800 more are on the brink of disaster. At the same time, the average price of gasoline in a city like Los Angeles is 6.1 cents a gallon higher this June than it was last June. On a nationwide basis, the average price increase over the first five months of this year has been 9.6 percent or approximately four cents per gallon. With no further increases, that will cost the American consumer $3.2 billion more for gasoline in the next 12 months. And prices continue to rise. The president of one major oil company has predicted increases of 16 cents per gallon by the summer's end; the same company reported a 43 percent increase in its first quarter earnings. The Cost of Living Council's 1.5 percent guideline is either unworkable or is not being enforced.

Each week another 175 independent service stations are closing their doors, while gasoline prices and the majors' profits continue to climb. As a matter of public policy, this Administration must decide whether it wants to save what is left of the independent marketers as a force in the market place. The Congress made its decision on April 30, when it gave the President the power to institute a mandatory allocation program for the benefit of consumers in regions like the Middle West, industries like farming, and the independents. The Senate reaffirmed that commitment with passage of S. 1570 last week. The Administration's refusal to use the power it already has, coupled with the continued exit of independents from the market place, rising prices and an ineffective and under-staffed voluntary allocation program dependent on the good will and public spirit of 23 major corporations never noted for their charitable instincts, have left the American consumer somewhat skeptical of this government's intentions.

This committee, however belatedly, can begin to restore that lost confidence and salvage what is left of the independent market by instituting the mandatory allocation program provided for in the Economic Stabilization Act. To delay any longer, as the majors solidify their hold on the retail market place, will add yet another chapter to a dismal record which at best reflects inept policies and at worst may make the federal government a partner in an alleged conspiracy to eliminate competition in the petroleum industry.

Last fall Administration spokesmen assured us there would be no shortage. In the face of dwindling supplies and serious shortages last winter, it waited until April of this year to abolish the oil import quota program. Despite evidence of antitrust violations for several years, it was not until May 25 that we heard the Justice Department had finally begun a "broad-based inquiry." There is still no indication when, if ever, the Justice Department will act. An investigation begun by the FTC staff in 1971 is still not complete, and there is no indication when the full Commission will act upon the staff's recommendations. All the while, the majors grow stronger at the expense of the consumer, the independents and those they supply.

And now we have the voluntary allocation program. I think the staff of the Office of Oil and Gas, including Director Duke Ligon, Robert Plett and Lisle Reed, have been doing a superhuman job. But when they can only appoint three people to their Chicago Regional Office to administer the program for a six-state area, which has thousands of affected independent outlets, the problem is not with the people, but with insufficient personnel and an unenforceable program.

Several majors have simply announced they will not comply. Others have announced they will comply and made up their own base period. Others have announced they will comply, but are selling product at what amounts to black market prices. Some of them have announced they will comply, but simply have not made good on that promise.

In my own state of Illinois, I have received approximately 25 inquiries per week from independents and customers of independents, particularly farmers and municipalities, whose supply has been cut off or severely cut back. Almost one-half of those writing or calling have never even heard of the voluntary allocation program. Once they know where to call, many spend days hearing a busy signal at the other end of the telephone line before they even make contact with someone in the Office of Oil and Gas. Of those who do make contact, many are told that they will be called back and are never called again. In several cases with which I am familiar, constituents first called Chicago and were told to call Washington. When Washington never called back, they called Washington and were told that the rules had been changed and that they should now call Chicago again. When they called Chicago last week, some three weeks after their first call, they were told that nothing could be done for them until these hearings were completed.

Of the 108 cases which have been filed with my office, I am aware of only three in which positive action has been taken, all requiring my personal intervention. Even this relief is only partial. The 17,000 farmers supplied by two of these constituents and the hospitals supplied by the other are assured of adequate supplies only through next month. More significantly, these three cases involve suppliers which qualify for priority allocation under OOG guidelines. The average independent who does not supply farmers, municipalities or some other priority need has received little or no help, while we continue to receive reports of majors offering to buy independent locations or take over the larger accounts of failing independents.

It is simply inconceivable to me that anyone, including the majors, could claim the voluntary program is working in Illinois. The guidelines themselves are well drawn and sound. But even if it were properly staffed, the voluntary program is doomed to failure because it has no teeth—there are no incentives for the major oil companies to comply. When it works, it is because of extraordinary circumstances, including the intervention of individual members of Congress and now the threat of Congressional action.

The facts speak for themselves:

Because the greatest tax advantages are in the production of crude oil, the integrated majors for years poured their crude oil profits into the construction of an elaborate marketing system of expensive, full service gasoline stations which in turn allowed them to produce and move through the system more profitable crude.

Because crude production meant big profits, the majors also found it advantageous to sell to independents at the same time they were constantly building and perhaps overbuilding their own expensive stations.

By utilizing cheaper facilities, higher volume, mass marketing innovations and the added advantage of not having to pay the two-cents-per-gallon franchising fee paid by major branded dealers, the independents were able to expand their more efficient marketing system until by late 1972, they accounted for seven percent of the nation's retail outlets and 30 percent of retail sales.

Since mid-1970, a time of plentiful petroleum product supply, not one of the majors has constructed a new refinery in the United States.

With the tightening of world oil supplies in early 1971 and the prospect of reduced crude oil profits, the majors were faced with the need to improve the performance of an over-built marketing structure which, separated from the production of crude, was not as efficient as that of the independents and was being continually weakened by the independents growth.

In an effort to upgrade their own marketing systems, some majors borrowed the best techniques of the independents and began marketing their own discount gas through company-owned secondary branded stations.

As the squeeze between foreign crude and the growth of the independents reached its peak in 1972, major oil company profits—although still substantial—began to decline.

In the fall of 1972, major oil companies denied there was any danger of a shortage and argued against the lifting of the oil import quotas.

Since the advent of the shortage in late 1972 and early 1973, with the consequent cut off of supplies to many independents, the profits of all major oil companies increased 28 percent in the first quarter of 1973.

Following the lifting of the oil import quotas, 12 majors announced plans to build new refineries which should be coming on stream to alleviate the supply crisis in the country in about three years.

19 of the 23 majors are building stations and now actively marketing secondary discount brands.

Despite claims of healthy competition among the majors, nine majors have announced they are closing down and pulling out part of their over-built, expensive retailing system from some 58 markets, withdrawing closer to their geographic base and eliminating competition among themselves in an effort to increase profits.

I suggest that circumstantial evidence supports the conclusion that the major oil companies are using the fuel shortage they helped create to drive out their competition. One need not go that far, however, to understand why the voluntary program cannot work.

On the facts, it would appear that it is not in the best financial interests of the major oil companies to rescue the independents. Whether there is a conspiracy or not, if the independents are eliminnated from the market place in three years when refining capacity is increased, the majors will be in a much better position to turn increased supplies into still higher profits rather than return to lower consumer prices.

The consumers of the nation understand the difference between a voluntary and mandatory allocation program. This Committee has the power to do what must be done. Effective action must be taken to protect the consumer and restore competition in the oil industry. I urge you to do just that by instituting a mandatory fuels allocation program immediately.

INFLATION

Mr. FANNIN. Mr. President, inflation is the most serious problem facing our Nation today. To bring inflation under control it is essential that we cut Federal spending and bring the budget into balance. It also is essential that the American people cooperate by pledging to do a fair day's work in return for a fair day's pay. Wage rates must be restrained if if we are to control inflation.

Mr. President, a very informative commentary on our economic problems was carried in the Industrial News Review recently. This article points out that monetary policy, that is devaluation of the dollar, will not solve our problem in trade and will not cure the inflation. This article came to my attention when it was reprinted in the Arizona Legislative Review, one of the most reliable and astute observers of political activity in my State.

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

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

DOLLAR DEVALUATION

There are all kinds of estimates of what the devaluation of the dollar may do as regards raising the cost of living in the United States. But what it all boils down to is that things are going to cost more. Most consumers, no doubt, already know this if they have any wits about them and, despite what professional consumerists say, most of them do.

When the dollar was devalued 10 percent, it meant that a unit of foreign currency which Americans previously bought for a dollar would now cost $1.10. The dollar cost of television sets, motorcycles, automobiles, clothing, cameras and everything else made in Japan, Germany and other countries will be higher. The reverse side of the coin is simply that the citizens of other nations will find that they can buy goods made in the United States more cheaply. The whole point to the exercise, of course, was to put a brake on imports by raising their cost and increase the flow of exports from the United States to other nations by lowering the price of American goods sold abroad. This should cut the disastrous $6.4 billion U.S. trade deficit run up in 1972 by an excess of imports over exports.

All of this is nothing more than a textbook version of how the dollar devaluation should work. As might be expected, the outcome is likely to be considerably different. For example, companies in foreign nations can absorb part of the higher dollar cost of their products in the U.S. by reducing profit levels as a means of holding on to their share of the American market. Some U.S. companies operating abroad will elect not to reduce the dollar cost of their products in line with the 10 percent devaluation of our currency. They will simply show increased profits. This can be done particularly in the case of high-technology items such as computers and aircraft. The demand for such things is little affected by small price changes anyway. Other nations may react to lower-priced American goods by erecting trade barriers as a counterforce—tariffs or quotas, for example. Our long-run trade deficit problems will ultimately be solved only by hardnosed trade treaty negotiations and control of inflation at home. Dollar devaluation is no cure for U.S. trade deficits. It is just another way of escaping the full consequences of inflation for a little while.

Mr. Ray Vicker writing in London for The Wall Street Journal points out the weakness of the dollar was brought on by our own lack of discipline at home. Policies discouraging industrial development, higher wages, shorter working hours and other factors that decreased our productivity combined with improvident fiscal policies at the federal level have allowed inflation to go its way unchecked. As Mr. Vicker puts it, "When a currency loses value within a country, the weakness appears in its external value, too. Foreigners note that the currency buys ever-smaller amounts of goods, so they lose respect for the currency."

And so we come back to basics. It is the attitude of the American people that counts. Do we want to put out a fair day's work for a fair day's pay, and do we have the self-discipline to demand that Congress achieve means of controlling federal spending even if it hurts us in the pocketbook as federal handouts decline? Can we cut through political rhetoric and recognize that national policies discouraging our business and industry—policies that often treat the productive economic institutions of private enterprise as enemies of the people—are dangerously detrimental to the future of all of us? Mr. Vicker points out the currencies of such countries as Japan, Germany and Switzerland are strong, and living standards are rising because of the economic policies that these countries have followed and because of the hard work of their people. Devaluation is no recipe for good times. If it were, Latin American nations, notably down at the heels economically, would be rolling in prosperity. After all, "Some of them seem to devalue about once a year, perhaps oftener in leap year."

The danger of the present dollar devaluation, which Mr. Vicker points out, is that it may lull the nation into an erroneous belief ". . . that the malaise is being corrected. Should anti-inflation weapons then be relaxed, the devaluation then may contribute to further weakening of the currency." To an increasing extent, if the world is successful in achieving an era of peace, the prosperity of nations and their leadership in international affairs will depend upon their strength as traders in the world market. The place of the U.S. will depend on our ability to see ourselves as others see us and act accordingly.

SPEND, SPEND, SPEND—IT'S ONLY THE TAXPAYERS' MONEY

Mr. PROXMIRE. Mr. President, each year the Pentagon wastes thousands of dollars in a last-ditch effort to spend congressional appropriations before the end of the year. The attitude of the military can best be summed up as "spend, spend, spend, before the end of the year, it is only taxpayers' money." While we all know this, it is often difficult to prove it. But a memorandum sent to me proves it in spades. It reads as follows:

FISCAL YEAR 1973 YEAR END OBLIGATIONS

1. In order to ensure that all FY 73 obligations reach the Authorized Accounting Activity (AAA), NSD Guam, in time for proper year end processing, it is requested that you obligate your remaining funds as soon as possible and immediately airmail me a copy of the requisition, work order, project order, etc.

It is clear that this memorandum was prompted by urging from higher command that all FY 1973 funds be obligated before the end of the year. There were no suggestions about how to use the money—just spend it quickly.

This situation develops just prior to the end of every budget year.

Last year Admiral Zumwalt sent out a directive requiring units to spend all of their funds so that Congress could not see that appropriated dollars had been left unused and perhaps refuse to provide a similar amount in the new budget. I called that the 'spend, spend, spend memorandum'.

Confirmation of this year-end splurge comes from another sources as well. According to documentation made available to me, the Pentagon has hurriedly requested bids to replace fences around five Nike air defense sites in the Baltimore-Washington, D.C. area. The estimated cost of this fence replacement is between $25,000 and $100,000, a paltry sum by comparison with major Pentagon programs but representative of the widespread abuses in the spend, spend, spend philosophy.

The fences in question have been judged by a longstanding specialist in this business to be in excellent condition. They are a six feet high chain link variety plus three strands of barbed wire for a total of seven feet. The new fences would be eight feet high plus three strands of barbed wire.

But since the troops at the various bases have already added concertina barbed wire on top of the seven foot fence, the fences as now constructed offer more security than the new nine foot fence would give.

The point is not security, however. The point is to spend that money before the fiscal year ends. I am told that these proposals for fence fixing come every year just before the end of June.

The truth of the matter is painful. The Pentagon does not care how the money is spent, just so it really is spent by the end of the year. No wonder the defense budget is out of control.

THE CONSTRUCTION UNIONS DECLARE WAR

Mr. FANNIN. Mr. President, the current issue of Reader's Digest carries the second installment in a series of articles on outrageous activities by labor unions.

Editor Charles Stevenson tells the terrifying story of the storm trooper tactics being employed by some building trades unions. These unions are using violence to intimidate nonunion contractors and workers, and firms which might do business with nonunion contractors.

Such violence and intimidation is an expected part of life in fascist countries and dictatorships, but it is repugnant and intolerable in any nation which is dedicated to freedom and justice under law.

Some unions have priced themselves right out of work in the building trades, and now they are seeking to attain by force what they could not possibly attain through legal means.

This is a very serious situation, and it may well be that we will have to institute new laws to prevent the type of terrorist activities—almost civil wars—which are described by Mr. Stevenson.

Mr. President, I believe this is a grave matter which demands the attention of all Members of Congress, 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:

THE CONSTRUCTION UNIONS DECLARE WAR

(By Charles Stevenson)

Some 150 men sweep down on the $1-million Pointe North professional building, under construction in Lansing, Mich. They knock down walls and destroy machinery, leaving an estimated $50,000 damage in their wake. No arrests are made.

Three weeks later, about 400 more men, many of whom have been drinking heavily, block traffic at the main intersection of little Kalkaska, some 200 miles north of Detroit. The county prosecutor tries to persuade them to leave, and they do—after overturning his automobile. Unchecked, they move three miles down the road to the construction site of a $20-million Shell Oil processing project, where they set fires, wreck equipment, smash vehicles and demolish walls. Outnumbered, state troopers seize two of the rioters, but when the mob moves in on them, injuring two officers, the two rioters are released.

The guerrillas depart, and about 150 of them drive 50 miles south to Roscommon, where a school is under construction. After fires are set and some $50,000 damage is done to machinery, tools and supplies, six arrests are made and state police are called in to assist the local sheriff and his deputies in controlling the mob of rampaging men.

Scene from a grade-B bandit movie? No. These ugly incidents erupted for real last January and February. They opened the 1973 campaign of the AFL-CIO building-trades unions to retain their grip on the construction industry, the nation's biggest. Across the country, the word seems to have gone out: punish those who dare let anyone but union men construct buildings.

MATTER OF MUSCLE

"Those who dare" are becoming numerous. Squeezed by skyrocketing construction costs, wage increases, work slowdowns, featherbedding, jurisdictional disputes and outright corruption, builders in search of a full day's work for a full day's pay are increasingly turning from closed union shops to open, independent shops. Some 5500 contractors, together with their 250,000 workers, have formed the Associated Builders and Contractors, Inc. (ABC), which currently gets at least 35 percent of the nation's construction work. Instead of bucking ABC by making their own services competitive, certain union chieftains are resorting to terrorism—in the belief that their political muscle will discourage any steps to halt the lawlessness. And why shouldn't they think this way?

Item: In two weeks last year, in Baltimore, Md., more than 200 members of building- and construction-trades unions stormed three separate projects, toppling office trailers, beating up the vice president of a contracting firm, setting fires. Twenty-one people were arrested—most of them for "disorderly conduct." A similar attack involved 250 pickets from Ironworkers Local 16 at another site. Union members formed a human wall to block firemen from a burning crane and trailer. One group of firefighters broke through, but found their hose had been axed. Only seven arrests were made. Fire department officials confirmed allegations of arson.

Item: For two weeks during May 1972, building and construction workers in Memphis, Tenn., went on strike and, at one point, virtually paralyzed all the city's construction work. Police reported 70 to 80 separate acts of vandalism, and made 59 arrests. Work was resumed only after a number of contractors submitted to union demands.

Item: During June 1972, union goons in Michigan dynamited shopping-center sites, storage areas and an asphalt plant in one-eight-day rampage. More than $250,000 damage was done to a single W. T. Grant shopping plaza under construction in Lapeer. On October 25, 200 construction workers set fires, tipped over a mobile office trailer and tore down a 20-foot cement-block wall at a second W. T. Grant site in Grand Blanc. Before enforcements arrived to aid badly outnumbered police, the vandals were speeding to Lapeer, where they attacked the now almost-completed Grant site for the second time. No arrests were made at Grand Blanc; one arrest was made at Lapeer, but the charge was later dropped.

Item: In Rochester, Mich., some 300 building-trades men stormed the construction site of the Walter P. Reuther Junior High School last December 18. They spent about two hours ripping out electric wiring and setting fires. Damage: some $30,000. Arrests: none.

BATTING PRACTICE

Now consider this modern-day "Philadelphia story." Although unions in the City of Brotherly Love once received 100 percent of the work, non-union or open-shop contractors have been steadily winning large contracts in suburban Montgomery, Bucks, Delaware and Chester counties, where most craftsmen do not belong to unions. Displeased, union toughs have been attempting to scare them off by brute force.

At 10:30 a.m. on June 29, 1971, four cars screeched to a halt at a shopping center in Springfield, Delaware County. An estimated 16 men piled out, ran into a building under construction and began hitting the six non-union workers there with softball bats. Several minutes later, they roared off, leaving five men a mass of bloody flesh, broken arms and fractured skulls. One was nearly blinded. In their haste, the union goons left behind some of their bloody bats, several emblazoned with symbol, LOCAL 30 (a Philadelphia roofers' union).

The victims managed to take down one license number, and made positive identification of three assailants. But, at the preliminary hearing, they would not identify the suspects, who were subsequently released. "I think the union got to them," Lt. T. W. Ward, of the Springfield police department, told newsmen. One assailant protested over drinks in a bar that he disapproved of the vicious attacks. Next morning he was found dead in a ditch, shot through the head.

On February 11, 1972, employes of Kitson Brothers, an open-shop roofing contractor in Montgomery County, voted to reject membership in Local 30 (the roofers' union). The following May 7, eight Kitson trucks were set afire. Ten days later, a construction site where Kitson had been hired to do a job was picketed by Local 30. Roofing material was burned, and non-union workers were beaten. The management of the company that had hired Kitson received threatening phone calls, found its own tires slashed and delivery of materials blocked. Finally, Kitson was asked to give up the job, which went to a union firm. Kitson Brothers has since lost several other jobs under similar circumstances.

OPERATION ALTEMOSE

But these chapters in the Philadelphia story have been mere prelude. J. Leon Altemose, an aggressive young contractor engaged in big-time construction in the suburbs, farmed out the bulk of his work to subcontractors who came up with the best prices. But, beginning in 1971, the Building and Construction Trades Council demanded that he sign a contract turning over every job to union-dominated subcontractors—no matter how high their charges.

To soften him up, goons set fires at a school he was constructing, burned five of his trucks and began a campaign of repeated phone threats on his life. Although Altemose offered to assign 70 percent of his work to union contractors, this did not satisfy the Council. Forewarned that big trouble was on the way, he strung nearly a mile of chain-link fence, topped with barb wire around a $15-million Sheraton Hotel and office complex he was building adjacent to Valley Forge Park, about 20 miles west of Philadelphia. When a demonstration was scheduled against

him on June 5, 1972, he told all employes and subcontractors to stay away and requested protection from Upper Merion Township police chief Donald Beacraft. The chief said a show of force would only be provocative.

At 7:30 a.m. on June 5, some 1000 men in automobiles and chartered buses arrived at the Valley Forge site carrying wrecking bars, Molotov cocktails and hand grenades. As 18 local police and state troopers looked on, the "demonstrators" rushed, screaming, at the fence and tore it down. Directed by colored smoke bombs to designated targets, they laid waste to everything in sight. "I felt like a war correspondent," reported Al Haas, a Philadelphia Inquirer writer. "The scene was right out of Vietnam." More than $300,000 damage was done in 45 minutes. Unable to restrain the rioters, police turned fire trucks away in fear for the firemen's safety.

Suddenly, at a signal from a command group of men in business suits, it was over. Sandwiches and soft drinks appeared, and the rioters wandered around quietly. Although state troopers finally arrived in force, not one arrest was made.

Fearing worse to come, Altemose and his attorneys prevailed upon Common Pleas Judge Vincent A. Cirillo to enjoin the Philadelphia Building Trades Council from picketing or congregating within a mile of any Altemose building site or his general headquarters at Center Square. Nevertheless, the next morning 200 marched upon his office, shouting that they would burn the building. This time large police forces were on hand. When 129 persons refused to disperse, they were arrested; most were fined $100 each for contempt of court. One of those arrested vowed that he would "get" Altemose and that the contractor should watch out for his wife. (Five months later, the Pennsylvania Supreme Court ruled that the pickets could be enjoined, but changed the one-mile limitation to "200 yards." Declaring that the arrested pickets had not been given their full constitutional rights, the court required all fines to be returned.

FIRE NEXT TIME

On June 13, local members of the Associated Builders and Contractors, Inc., met at the downtown Philadelphia Sheraton Hotel. That same day, a group of men checked into the hotel under aliases and, once inside, smashed the furniture of eight rooms to kindling, ripped mattresses and pillows, clogged toilets with cement, then fled after inscribing the walls with this message in red: "This time water, next time fire."

Two months later, Altemose and his wife emerged from a bank in the heart of Philadelphia's business district to be confronted by a throng of pickets. "Scab!" they screamed. "We'll teach you to show your face in Philadelphia." Fists flew, and Altemose slumped to the ground. "They kicked him in the face viciously," said one eyewitness. Three union hoodlums, identified both by Altemose and by police at the scene, were arrested and charged with assault. Yet a local judge dismissed the three for lack of evidence.

Although Altemose remains determined to complete his project, it is a desperate struggle. The only three ready-mix concrete firms logically situated to serve the Sheraton project have refused to do so; phone calls threatened the lives of their executives if they dared do business with Altemose. When a distant firm did begin to help him, 58 of its trucks' tires were slashed or punctured in the company's own parking lot. "Three informers have told me I am supposed to be dead," says Altemose. "But I can't change the way I live. I'm not giving in." (His company has since joined in filing an anti-trust suit against over 50 Philadelphia building-trades unions.)

ACQUIESCENCE?

In his determination to remain free of union dictatorship, Altemose reflects the feelings of thousands of other open-shop contractors and workers. But the price of their independence is unrelenting, unchecked terror and sabotage. Labor bosses piously disclaim responsibility, explaining that they cannot control those who become unruly when their "rights" are challenged. Yet word has been spread among the unionists that this year, 1973, will bring extermination of the enemy.

The question is: Why does a free society permit such storm-trooper tactics? Obviously, there is an urgent need for new federal legislation. Yet most of our politicians in Washington dare not move against the enormous power of the labor lobby and its millions of dollars in potential campaign contributions. The story of this shameful acquiescence in the face of union terror should arouse every law-abiding American.

COSTS OF OPERATING THE NATION'S AIRPORTS AND AIRWAYS SYSTEM

Mr. ABOUREZK. Mr. President, as you know, the Department of Transportation is conducting a cost allocation study to determine appropriate methods of allocating the cost of operating the Nation's airports and airways system.

It appears that early proposals by the study could have far-reaching and devastating effects on general aviation in America; and, in effect, that they would, price it out of the reach of the large majority of those who now travel and conduct business through general aviation facilities. This being the case, I am fearful that if the proposals are implemented the results would be counterproductive and even destructive. This point is not my argument alone, Mr. President, for it is presented most clearly in a comprehensive statement I received in a letter from Mr. Harold Strong of Bismarck, N. Dak. I would like to share Mr. Strong's observations with my colleagues and ask that his letter be inserted in the RECORD.

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

BISMARCK, N. DAK.,
June 4, 1973.

Hon. JAMES ABOUREZK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABOUREZK: By way of introduction, I am a commercial airline pilot with instrument and multi-engine ratings. I am also a Housing Specialist with Basin Electric Power Cooperative's "People's Housing Program" and in that capacity I must travel extensively over North Dakota, South Dakota, Montana, Wyoming, Colorado and Nebraska consulting on housing projects. Because of the nature of our country and the distances involved, the only way I can travel to many of these projects is by private plane or waste several days driving. I presently rent various single engine aircraft which I use for the above mentioned business purposes and for recreational flying.

As you are no doubt aware, some time ago the Congress, in Section 4 of the Airports and Airways Revenue Act of 1970, directed the Department of Transportation to conduct a study to determine the appropriate method for allocating the costs of the airport and airways system among the various users and to identify the costs of the system which should be borne by the federal government because of benefit to the general public.

The Department of Transportation contracted this study out to a private research company, the Resource Management Corporation of Bethesda, Maryland. The results of that study will be presented to the Congress soon, for your consideration and action. There are serious shortcomings, inadequacies, and inaccuracies in this Cost Allocation Study which I would like to take this opportunity to bring to your attention.

The primary shortcoming in the Study is in its findings of "no unique public benefit" from general aviation. At the outset of the Study, the researchers state that there are definitely benefits to the general public from general aviation, but that since they are diverse and difficult to measure (the study was done by economists), the study would simply not try to find them or quantify them. Then, 20 volumes later (and at an expense to the U.S. Treasury of $630,025.00) the researchers (who by their own game plan didn't try to define or quantify the benefits to the general public accruing from general aviation) state that they didn't find any such benefits. Such circular reasoning is a discredit to the value of the entire study and to the science of econometrics.

There are a great many benefits accruing to the American public from general aviation, and I would respectfully call a few to your attention. Basically, "general aviation" includes all aviation operations except the military and the certificated airlines. General aviation is a vital and integral part of the national transportation system. The airlines serve only 530 airports in the United States. The other 11,540 U.S. civil airports are served only by general aviation. As you well know, over the vast areas of our mid-west and the rest of the country beyond the major urban areas, general aviation is the only form of rapid transit available to the American public, and public reliance on this system is proved by the fact that almost 50 million passengers were carried by general aviation last year, according to Federal Aviation Administration statistics. Indeed, the availability of the general aviation rapid transit system is often credited with helping reverse the trend toward intensive urbanization (which has been the root of a great many of our nation's socioeconomic ills in the past few decades) by drawing industry to non-metropolitan locations convenient to industrial airparks and public airports served only by general aviation.

General aviation is not only transportation. It is also recreation for a growing number of Americans, as we American workers gain more leisure time in our work week. For many of us, sport flying is one of those "pursuits of happiness" which makes us glad to be alive and glad to be Americans. The quality of the American life would surely be diminished if our citizens could not enjoy such recreation because of government over-regulation.

General aviation also provides other special services upon which the public relies, including aerial application (crop spraying) essential to agricultural pest control, pilot training, mapmaking, aerial ambulances, pipeline patrol, fire suppression and crime prevention.

The second major shortcoming in the Cost Allocation Study is that the economists left their job only half done, for they make specific recommendations as to user charges upon the users. The Study improperly assumes that if the cost of the system is spread over the user "market", it will be absorbed without significant after-effects. This is far from the case. The question is one of "market elasticity". The basic economic principle

involved is that as the product (in this case, general aviation operations) becomes more expensive, fewer people will be willing to buy it.

The Cost Allocation Study does not consider this basic economic principle or make any effort to project its impact. The General Aviation Associations Committee, however, has commissioned a private study of this question by the Battelle Institute. Initial economic projections indicate that if the user charges suggested in the Cost Allocation Study are applied, 80% of all general aviation operations will be immediately terminated, because they will be immediately "priced out of the market" by the move.

As an example, the following are some of the "user" charges contemplated against general aviation: $1 per gallon fuel tax (airlines pay nothing); $1,530 per year registration for single-engine plane, $7,640 for twin, $15,300 for jet or turboprop; land fees of $3 per landing for single-engine itinerant aircraft at all airports with control towers, $8 for light twins, $25 for heavy twins and $60 for air carrier aircraft; $54 for filing a VFR flight plan and $88 for IRF flight plans.

This will, of course, not be the end of it, but only the beginning of a vicious spiral, for as the size of the market is reduced, the system costs (which will remain constant or continue to increase) will have to be borne by an ever-smaller group of consumers, at an ever higher cost to each, until simply no one can afford to fly and civil aviation (airlines included) ceases to exist.

In connection with this, it is also noteworthy (although this, too, is overlooked by the Cost Allocation Study) that the United States is the major exporter of general aviation aircraft in the world. Approximately 25% of all general aviation aircraft manufactured in the United States are exported. This amount to a benefit of our balance of trade of about $700 million in 1972. If general aviation operations in the U.S. are significantly curtailed, domestic sales of general aviation aircraft will be reduced, causing unit prices of such aircraft to rise, placing U.S. manufacturers at a competitive disadvantage in the world market and this eliminating a sizable component of our export trade.

Finally, the third major shortcoming of the Cost Allocation Study is that since it was done by economists, rather than those versed in and concerned with aviation safety, it overlooks the potentially disastrous effect which some of its proposals could have upon aviation safety. The Study recommends fees for filing flight plans and for taking advantage of federal services to flight safety, including weather briefings and use of navigational facilities. Again, basic economics dictates that as these services are made more expensive to the consumer, fewer consumers will make use of them. Discouraging aviators from seeking the benefits of such Federal services by interposing such fees can only result in a decrease of public safety. And public safety is the only reason why the federal government become involved in the regulation of aviation in the first place. It is certainly a potentially self-defeating proposal.

In summary, it appears to me that the Cost Allocation Study is woefully incomplete and scientifically unprofessional. I hope that the additional information which I have offered here will aid you in your evaluation of its proposals, when they are presented to the Congress, and that you will find, as I surely believe, that there are indeed benefits to the general public from general aviation which far outweighs the cost of the Federal services supporting it.

Sincerely,

HAROLD STRONG.

PRESS COMMENT URGING END TO SOVIET EMIGRATION RESTRICTIONS

Mr. JACKSON. Mr. President, the East-West Trade and Freedom of Emigration legislation which Representative WILBUR MILLS of Arkansas and I have introduced in the House and the Senate now has the cosponsorship of 285 Representatives and 77 Senators.

I would like to share with my colleagues some American press perspectives on our initiative which conditions trade concessions for the Soviet Union and other nonmarket economy countries on free emigration. This recent editorial sampling is of particular interest, I believe, in connection with Secretary Brezhnev's visit to the United States.

I ask unanimous consent to have this material printed in the RECORD.

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

[From the Clovis (N. Mex.) News-Journal, May 16, 1973]

TRADE COULD DEPEND ON ACT

The Administration is currently making every effort to encourage trade with the Soviet Union and other communist nations, despite the fact that these governments have not relaxed their tyrannical hold to their people or their aggressive designs on the rest of the world. But legislation currently pending in Congress could put a stop to this indefensible policy.

Congressman Wilbur Mills of Arkansas, chairman of the House Ways and Means Committee, has introduced a Freedom of Emigration Act, co-sponsored by close to 260 other House members. This act, identical to legislation introduced last year by Senator Henry Jackson of Washington, stipulates that no country may receive most-favored-nation treatment in trade with the U.S. or participate in U.S. credit guarantee programs, unless that country's government gives its own people freedom to emigrate.

This legislation is aimed directly at the Soviet Union, which prohibits free emigration and often imposes a heavy exit tax on those few citizens committed to leave the country. It would also affect other communist Bloc nations, including Poland which already has most-favored-nation status.

Unless the Soviet Union reversed its despotic emigration policy, it could not receive the special tariff concessions, nor could it take advantage of U.S. Government credit and investment guarantees which come through such agencies as the Export-Import Bank. This would make it very difficult for the Kremlin to trade extensively with the U.S. passage of this legislation would indicate a constructive concern for the suffering people behind the Iron Curtain. Citizens should let their Congressmen know that they support the Freedom of Emigration Act.

[From the Spokane Chronicle, June 20, 1973]

FREE EMIGRATION IS KEY

Trade concessions with the Soviets should be conditioned on free emigration from Iron Curtain countries. That is the contention of 77 senators and more than 280 representatives who joined as sponsors of the Jackson-Mills-Vanik amendment now before congress.

The prime sponsor, Sen. Henry M. Jackson, D-Wash., addressing the Freedom Assembly for Soviet Jews in Washington, D.C., Sunday, said that if the White House provides guaranteed credits, it should not be too much to ask that the Kremlin provide guaranteed free emigration, and if American industry provides the technology and investments to develop Soviet natural resources, Moscow should provide the visas for saving human resources.

Jackson explained that he is not against trade with the Soviet Union, but believes that such trade should serve larger interests and not just Soviet economic interests. He said that conditioning trade concessions on free emigration is the best hope for survival and freedom of Russians who want to leave that country, and it is an effective way to reconcile human rights with the relaxation of tensions between the Soviets and United States.

The Soviet government, in his view, can live easily with the East-West Trade and Freedom of Emigration amendment, but Soviet jewry will find it difficult to live without it.

The senator makes a good point.

The Soviets can allow free emigration without changing any laws, as there is no Soviet statute prohibiting freedom of emigration. Moscow is a signatory to international agreements specifying the right to emigrate. The Soviet government need only change its administrative policies to meet the conditions of the amendment.

[From the Philadelphia Inquirer, June 21, 1973]

NIXON-BREZHNEV CONFERENCES

There is one principle, partly played out in the last few days, that in the long range may be of more consequence than any other product of the current Nixon-Brezhnev conferences. It is that coherent public opinion can indeed influence public policy—even across political and ideological boundaries—especially if it is heard by those in power.

The recent object lesson has to do with the plight of Jews in the Soviet Union. For reasons that go deep into historical Russian anti-Semitism and the modern Soviet presumption that the citizen is a mere convenience of the state, Jews have fared badly there. Especially grim has been the woe of Jews seeking to emigrate, mainly to Israel.

Rigid bans and prohibitive emigration taxes have held many captive. Responding to American public sentiment, a movement has developed in Congress, known as the Jackson Amendment, to refuse the Soviet Union the international trade advantages it seeks unless it relaxes those emigration restrictions.

Clearly as an effort to diminish that threat, the Soviet government has recently relaxed the emigration tax, but not in such a way as to guarantee the right of exit, or to satisfy critics.

Then, Monday evening, the question was raised by reporters questioning Leonid M. Zamyatin, director general of Tass, who held a joint briefing in Washington with White House spokesman Ronald Ziegler. Mr. Zamyatin said:

"Those who ask such a question create the impression of proceeding from a position which is tantamount to interference in the internal policies of another sovereign state."

That, abruptly, was that. Straight party line and no elaboration.

Then, less than 24 hours later, Leonid I. Brezhnev, who is the boss of Mr. Zamyatin and for all intents and purposes everybody else in the Soviet Union, was asked the same question in a gathering with members of the U.S. Senate and House.

Mr. Brezhnev whipped out a little red notebook, quoted a complex, if disputable, battery of statistics on Jewish emigration and argued that, really, things are not as they seem. He concluded:

'We came here to consolidate good things, not to quarrel. We can stay at home and quarrel. Any of you who wants to spoil good relations can make up bad questions, spread the rumor that sometime in the future we will impose a new tax. I can't understand why these things should impair good relations between us."

Just as Mr. Brezhnev's statistics were not the last word, his peroration did not betoken a sudden resolve to replace Soviet political imprisonment policies with a grand democratic opening. But it and his ready notebook did demonstrate that the man who makes the decisions in the halls of the Kremlin had been pushed significantly beyond the intransigent party line.

That alone is a potent justification for increasing the mutual exposure of Americans and Russians—or Chinese or anyone else, from chiefs of state to private citizens. It is also a movement on behalf of repressed Russians, be they Jews or not, which we interpret with reserved optimism.

But most of all, we take it as an encouragement that coherent and constructive public concern can bring humane change, even across what used to be called the Iron Curtain.

That is the fundamental principle on which we base our preference for democracies, with all their failings, over totalitarian governments, with all their beguiling arguments for efficiency. For reconfirming that bias, our thanks to Mr. Brezhnev.

[From the New York Times, June 21, 1973]

SOVIET WORDS AND DEEDS

(By Anthony Lewis)

LONDON, June 20.—Dmitri M. Segal is a young Soviet scholar of extraordinary brilliance and breadth of interest. His field is linguistics, but he has worked also on folklore and anthropology. He has written on language theory, on mythology, on the structure of Edward Lear's limericks.

His works have been published in the Soviet Union, Poland, the Netherlands, Britain, Italy. He won an Italian prize for his studies in Russian folklore. His work is known to such Western figures as Claude Levi-Strauss.

Last Dec. 26 Dmitri Segal and his wife, Elena Dmitrievna Segal, applied at the visa office in Moscow for permission to leave the U.S.S.R. for Israel. Months later they got the answer: No. The reason given was "lack of parental consent."

Dmitri Segal is 36 years old, his wife is 29—and the age of majority in the Soviet Union is 18. Those who have seen the official form on which Soviet citizens must apply to emigrate say that it says nothing about parental permission. But when the authorities want to, they simply impose that condition, no matter what the age of the applicants.

The problem for the Segals is her father, Dmitri Tolstoi, who is the son of the Soviet writer, Aleksei Tolstoi. After giving his consent for his daughter's departure, he changed his mind under circumstances that are not clear. He then circulated an "open letter" saying that members of "prominent families" should not be allowed to leave the U.S.S.R.

Immediately after they applied for visas, the Segals were deprived of their work—as is the regular practice. Friends who have seen them recently describe them as desperate.

The case of Elena and Dmitri Segal throws some realistic light on Leonid Brezhnev's assurances to members of Congress about Soviet treatment of would-be émigrés. He said that 95 per cent of the Jews who asked to leave have been allowed to; only 738 recent applicants had been turned down, 149 on grounds of national security; the suspended exit tax would not be reimposed.

Such assurances from the leader of the Soviet Communist party carry great weight. That he should even talk with American politicians about what the U.S.S.R. has always considered an internal matter is highly significant. There are some practical constraints now on Soviet handling of the emigration problem—constraints imposed by the desire for better economic and other relations with the United States.

But the realities remain, and for the human beings involved they can be terrible. Not that a national judgment should be made on the basis of one injustice. The point about the Segals' case is its demonstration of continuing arbitrary treatment that simply does not fit the assurances.

There is, for example, no "national security" reason for denying exit visas to the Segals. Nor is theirs some old case that would be handled differently now: The refusal of their visa was confirmed to them just one month ago, on May 18, by a Colonel Verein of the Soviet Interior Ministry.

And of course there are many other cases of entirely arbitrary denials of exit visas, hundreds known in the West and probably many more unknown. Characteristically, the obstacle is not the tax or any other general rule but some special legal device such as the demand for "parental consent."

When Prof. Benjamin Levich, the great Soviet scientist, sought to go to Israel, his son was drafted. The young man has recently been reported to be suffering from a stomach tumor at a remote army post.

A pupil of Professor Levich, Victor Yachot, was also called up for military service when he sought to emigrate. He refused to go, saying that he had renounced his Soviet citizenship. He was thereupon sent to one of the notorious prison psychiatric "hospitals" used to punish dissidents. But he was fortunate: After protests from the West he was allowed to go.

It would be foolish to think that the United States, as part of its new relationship with the U.S.S.R., can force early or dramatic changes in Soviet legal practices—indeed, in the whole Soviet view of law and authority. Mr. Brezhnev and his colleagues cannot and will not abandon their system of power.

But it would be just as wrong for U.S. officials to pretend that all is well when it is not. American pressure can make some difference, as we have already seen. And in a larger sense, greater freedom of movement for people and ideas is perhaps the most important concrete objective for the West in the new relationship with the East—a goal to be kept in mind in all meetings and negotiations.

[From the Chicago Tribune, June 21, 1973]

MR. BREZHNEV'S JEWISH PROBLEM

Leonid Brezhnev, consulting his notes, has informed several United States senators that there is no Jewish problem in the Soviet Union. Those Jewish residents who wish to emigrate can do so, he indicated, and he said that 60,200 out of 61,000 applicants had received permission to go last year.

On the surface, this sounded persuasive—as Mr. Brezhnev hoped it would prove to be. He urgently desires most-favored-nation tariff treatment from the United States, but this is stalled by a Senate amendment to ban such status to nations which restrict emigration. So Mr. Brezhnev was going all out to persuade those senators.

But there are problems. For one thing, sources in Moscow and Israel can account for only about 30,000—not 60,200—Soviet Jews who actually emigrated last year.

For another thing, several senators—and thousands of other Americans—are aware of cases such as that of Vitali Rubin, a Soviet citizen who is seeking to go to Israel and has not been permitted to do so.

The plight of Mr. Rubin, a distinguished authority on China, cannot be unknown to Mr. Brezhnev, because two-score Western academicians have written to him about it. Indeed, petitions supporting Mr. Rubin have been signed by 1,200 scholars. So the chairman knows about Mr. Rubin and the senators know he knows.

This is Mr. Rubin's situation: He was a researcher at the Institute of Oriental Studies of the Academy of Sciences in Moscow. In February, 1972, he applied to emigrate to Israel, where his sister lives. He promptly was ordered to resign from the institute. Publication of his works was halted. Reviews of his already published writings were cancelled. He has become a nonperson, and manages to stay alive only by selling his library, book by book, to buy food.

His Israel visa has not been granted. Neither was one for the United States after he was invited to teach at Columbia University last spring. He has been invited to deliver a paper on ancient Chinese thought at an International Congress of Orientalists in Paris next month. No visa has been granted for this, either.

What is the reason for this inhuman treatment? Soviet authorities have sometimes barred the exodus of scientists on the ground that they have had access to secret materials and that their emigration might be dangerous to state security. But Mr. Rubin's field of knowledge is, as he has pointed out, the Chinese classics, "no more secret than the Bible or the tragedies of Shakespeare."

If Mr. Brezhnev wants us to believe what he says about the absence of a Jewish problem at home, he had better see that Mr. Rubin is allowed to attend the Paris meeting and is granted a visa to Israel.

[From the Los Angeles Times, June 21, 1973]

THE NIXON-BREZHNEV SUMMIT: DÉTENTE WITHOUT MORALITY IS UNWORTHY OF AMERICA

(By George Will)

WASHINGTON.—Sen. Henry M. Jackson (D-Wash.) wants a law that would deny certain trade concessions to the Soviet Union and similar dictatorships at any time they deny their citizens the right or opportunity to emigrate. The current visit by Secretary Leonid I. Brezhnev makes the idea particularly pertinent. When Jackson first introduced his proposal last year, the Soviet government blustered something about its sovereign right to abuse its citizens. This bluster was encouraged by Nixon Administration assurances that the Jackson threat would disappear with the 92nd Congress. But now the 93rd Congress is here and Jackson, persistent rascal that he is, has rounded up 77 senators and approximately 275 representatives to support his proposal. The Russians, eyeball-to-eyeball with Jackson, have blustered again. And they have linked.

While some people have wrung their hands and worried about the threat to detente, Jackson has forced the Russians to promise to ease some restrictions on emigration. Because Soviet promises are as unreliable as Soviet agriculture, Jackson wants his measure made law. I believe it should be, for two reasons:

First, as Jackson says, only a *permanent* threat, embodied in law, will keep the Russians true to their word. The Soviet government has been known to fib about the rights it guarantees its citizens (*vide* the U.S.S.R.'s constitution).

Second, the Jackson measure should be passed because the nature of the opposition to it has made it a challenge to amoralism in our foreign policy.

Consider the opposition. Because the Soviet government is a "good customer," and because we should not "interfere" in the in-

ternal affairs of the Soviet Union, Sen. William B. Saxbe (R-Ohio) has opposed Jackson. Saxbe, who just a few months ago said the President seemed to have "taken leave of his senses," has become one of the President's few Senate allies in actively opposing Jackson. This is appropriate because opposition to Jackson rests on what deserves to be known as the President's "good-customer" principle of amoralism in foreign policy.

By amoralism I mean the idea that a nation has no obligations—other than those dictated by self-interest, narrowly construed—to other people. It is an idea cogently expressed by one of the President's favorite pinups, Charles de Gaulle: Nations have interests, not friends.

It is surpassingly hard to take seriously those who say they oppose the Jackson measure because it constitutes "interference" with the internal affairs of another nation. Jackson's measure is comparable to FDR's proclamations against Nazi anti-Semitism. The difference is the difference between empty words and effective deeds.

Jackson's interference consists of confronting a nasty regime with a difficult choice; the regime can modify one of its particularly disagreeable policies, or it can hurt itself economically, If it chooses to injure its citizens, and especially its Jewish citizens, rather than help its economy, there is nothing we can do about that. But we can make them choose, and it is our duty to do so. To do otherwise would be a failure to use a readily available nonviolent instrument on behalf of oppressed people.

The 23 senators who thus far have refused to cosponsor Jackson's measure include many who have voted to use economic leverage against nations they dislike. Sens. Nelson, Hatfield, Abourezk, Burdick, Fulbright, Hathaway, Metcalf, Moss, Pearson and Saxbe have voted for one or more of the measures to forbid aid to Greece, sugar quotas for South Africa, chrome imports from Rhodesia.

The unpleasant truth is that many senators who opposed Jackson are just unwilling to offend a dictatorship that is a "good customer." That is applied amoralism, and it is the essence of a popular view of what detente must be.

A sensible understanding of detente rests on the idea that there is a difference between doing life-and-death business with vicious regimes, and suggesting by deeds—e.g., opposing the Jackson measure—an official amoralism.

Such amoralism has a way of growing into the doctrine that it is rude, irrational or otherwise wrong to use even economic leverage against noxious regimes that are asking us for economic favors.

Any detente built on such amoralism is not worth having. What is worth having is a detente built on the middle ground between crusading moralism and flaccid amoralism in foreign policy.

Increasingly the idea of detente seems to involve more than just avoiding military conflict with totalitarian superpowers. And, increasingly, detente seems to require eschewing any action that will complicate commerce with regimes which, though tyrannical, are "good customers."

As American economic interests rally round this idea, detente comes to resemble Coolidgeism: The business of American foreign policy is business.

But this is neither wise nor necessary. The Jackson approach to detente is levering concessions from the Soviet government. And Saxbe can relax. The Soviets will continue to be good customers. They care more about commerce than human rights. We will not continue to be a decent country if we are like that.

ALLEGATIONS OF IMPROPER PRACTICES IN THE RECORDING INDUSTRY

Mr. McCLELLAN. Mr. President, in recent weeks there have been widely publicized allegations of improper and illegal practices in the recording industry. It has been alleged that the use of drugs and payola is prevalent in segments of the industry. There have been allegations that record companies have made payments to promote the playing of records by broadcasting stations. It has been reported that recording artists have been supplied with drugs in connection with their contractual relationship to record companies.

It is anticipated that later in this Congress the Senate will be considering legislation now pending before the Senate Judiciary Subcommittee on Copyrights relating to the payment of copyright royalties by broadcasters to record companies, and the creation of a performance royalty in the copyright statute for the benefit of recording artists and record companies. It will also be necessary for this Congress to act on the extension of the legislation to combat the unauthorized duplication of sound recordings and tapes.

I have supported such measures, and anticipate continuing to do so. It is apparent, however, that there will be a significant difference of opinion within the Senate concerning the creation of a performance royalty. That issue should be determined on its merits. To do so it is necessary to establish the actual facts with respect to the allegations of improper practices.

I am accordingly directing the staff of the subcommittee to conduct a prompt investigation of these charges. I wish to emphasize that this investigation will not delay action on the copyright revision bill.

RETIREMENT OF SENATOR COTTON

Mr. SCOTT of Pennsylvania. Mr. President, the impending retirement of our outstanding colleague from New Hampshire (Senator COTTON) has saddened us all. We will greatly miss his intelligence, his integrity, his finely honed wit and his quick analysis of complex legislative issues.

We will especially remember NORRIS COTTON as a Senator, and before that a Congressman, who was a true "Representative" in the finest sense of the word. He has always placed the needs of his fine New Hampshire constituents high above any personal thoughts. I know that despite his retirement, this innate understanding for and devotion to the people of New Hampshire will continue and they will long reciprocate these warm feelings.

I ask unanimous consent that two editorials, one from the Manchester Union Leader and another from the Valley News, be printed in the RECORD. They are a fine tribute to a great man and a good friend.

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

DANIEL WEBSTER WOULD HAVE SAID "WELL DONE, NORRIS COTTON"

It is sad news for all of New Hampshire when one of its strongest sources of influence in government in Washington, D.C., Senator Norris Cotton, announces that he will not run again. The Senator is the third-ranking Republican member of the Appropriations Committee; he is the third-ranking Republican Senator on the subcommittee on Defense; he is the first-ranking Republican on the subcommittee for Health, Education, and Welfare; he is the ranking Republican on the Commerce Committee and he is the Chairman of the Republican Conference. With all of these, he has tremendous influence in Washington. It is very essential for a small state, such as New Hampshire, to have this sort of seniority and leverage in Washington if it is to be able to obtain what it needs from the federal government.

While the Senator is not the sort of individual to change his mind, we would very much hope that between now and the first of 1974, he will change his mind. This newspaper is well aware of the fact that Mrs. Cotton has not been well and since the Senator is a very conscientious husband, Mrs. Cotton's health is a serious obstacle to his running again.

On the other hand, the Senator has come such a long ways from Warren, New Hampshire, that it seems to this newspaper a great pity to throw it all over instead of finishing out his career with his boots on in the United States Senate. It's not as if the Senator were mentally or physically doddering. Senator Cotton is as physically and mentally tough as an old-time New Hampshire hickory fence railing. Those who have known him for many years know there is no deterioration in either his physical or his mental capacity.

The Senator's career has been a remarkable one for a country boy born in the village of Warren, New Hampshire. He has progressed from a plain background to holding an important position in the seats of the mighty in our nation's capitol. Probably when he attended school in Warren and afterwards when he attended Exeter Academy on a scholarship, he never thought that life would carry him into such a prominent position. Yet, his abilities were so outstanding that they brought him the recognition that he deserved.

This newspaper has on occasion disagreed with Senator Cotton and I am quite sure he has disagreed with us. We don't agree with his vote on the Bayh Bill banning certain types of pistols; we did not agree with his recent position in favor of scuttling and running out of Cambodia and all of Asia, thus turning it over to the Communists.

Yet on so many issues, this newspaper would have to assert, and most of New Hampshire would agree with us, that the Senator has been right most of the time.

One of Senator Cotton's outstanding characteristics is that he is essentially modest and has a bright and droll sense of humor, even at his own expense.

The Senator used to like to tell the story of the group of New Hampshire High School students who came to his office one day and in making conversation with one of the young ladies, he asked her what she was studying and she, not knowing where the Senator was born and raised, said very seriously, "Well, Senator, our class project right now is to study inbreeding and feeblemindedness in the town of Warren." That always gave the Senator a great chuckle.

Like many people with a sense of humor, the Senator has never taken himself seriously or behaved pompously. As a matter of fact, this observer does not believe that Senator Cotton ever enjoyed having to give or-

ders and in any way act as a boss of the Republican Party in New Hampshire.

Essentially the Senator is an extremely modest individual who delighted in doing a conscientious, good job for the people he represented. Unlike some individuals, he did not ask for prominence, glory or recognition. He just wanted to be able to perform competently in the assignments that had been given him.

It has been a long hard, dusty road from Warren to the Senator's Office on Capitol Hill in the New Senate Office Building, but as the Senator looks back today on that road, recognizing all the obstacles along the way, he should be able to feel to himself that he walked it honestly, unlike many people who go to Washington who return to their native heaths with a large fortune accumulated through their Washington connections. The Senator's financial position is modest and he could no doubt have made much more money if he had remained in private law practice. But the Senator must feel very rich in friends and a sense of genuine accomplishment, and although he might not acknowledge it, the gratitude of the people of New Hampshire, many of whom wish that he would change his mind and stay on and be of even greater service to the Granite State.

SENATOR COTTON STEPS DOWN

Those older citizens of the Upper Valley who remember so well the younger, active, vivacious, brilliant Ruth Cotton can describe the tremendous influence she had upon the younger Norris Cotton as he was climbing his way up the political ladder in local, state, and then national politics.

This is not to say that Sen. Cotton, who Thursday announced his intention not to seek re-election, could not have made it to the top of the Granite State's political pyramid without the assistance of his wife. But his task would have been immeasurably more difficult.

Sen. Cotton and this newspaper, as our more faithful readers are aware, have many times been on opposing sides of important questions. Nor do we expect that as the senator's last term winds down we will always see eye to eye. But it bears saying, particularly at this juncture, that our differences have been plainly and simply those of opinion. We have never doubted his sincerity, nor his desire to do the best possible job for his country and his constituency as he sees that job.

And we can understand and sympathize with him as he went through the agony of making this decision—not to seek re-election. His concern for Mrs. Cotton should bring forth in all of us the same response: we understand, we thank him for his long years of faithful and enterprising service, and we wish him many more years of active service to the American public he so obviously loves and respects, as senator or in whatever area he seeks to work after 1974.

More importantly right now, however, we all must wish Mrs. Cotton a quick return to good health. With the senator close by, perhaps that will be expedited—and this is why we applaud Norris Cotton's act of Thursday.

COURT OF APPEALS UPHOLDS FEDERAL TRADE COMMISSION AUTHORITY

Mr. MOSS. Mr. President, the Court of Appeals for the District of Columbia has today upheld the authority of the Federal Trade Commission to issue trade regulation rules. Coming on the heels of the Supreme Court's decision upholding the authority of the Food and Drug Administration in its efforts to protect the public health and welfare from unproven drugs, we can certainly claim that the American consumer is well on his way toward seeing his fundamental rights protected.

Many people have anxiously awaited this decision. Only time will tell the long-range significance of the court's decision. In the meantime, we will be able to watch the Federal Trade Commission, an agency that has demonstrated that it has the will to protect the public, make use of this authority to fulfill the needs of the American public. Now that this critical test is over and won, I am confident that the Federal Trade Commission, under the leadership of Chairman Lewis Engman, will get on with the business of protecting business and the public from unfair and deceptive practices.

CITIES SUPPORT LEAA AMENDMENT

Mr. HART. Mr. President, it now appears likely that the Senate will proceed to the consideration of the LEAA program and the Safe Streets Act extension tomorrow. We will take up the House bill, H.R. 8152.

I have already indicated that I plan to offer an amendment to the substitute proposed for the House bill by the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Nebraska (Mr. HRUSKA). My amendment would shorten the period for which authorization is provided from 5 years to 2 years.

My explanation for this amendment apears in yesterday's RECORD at page S11858. At this time I would like to insert in the RECORD a statement in support of my amendment from the National League of Cities and the U.S. Conference of Mayors. The groups of local officials perhaps most affected by the crime epidemic in our urban areas.

Their support for this amendment is particularly significant because some suggestion has been raised that a 2-year authorization would hinder local officials—particularly in our larger cities—in their efforts to plan and undertake long range projects from reform.

But the League of Cities and Conference of Mayors obviously do not agree with that position. They state:

. . . [W]e feel that some scrutiny by the Congress bi-annually would *strengthen* this crime fighting program—which is so essential to local officials.

Mr. President, I ask unanimous consent that the letter from these organizations be printed in the RECORD at the conclusion of my remarks.

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

NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
June 27, 1973.

The Honorable PHILIP A. HART,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: The National League of Cities and the U.S. Conference of Mayors supports your proposed amendment No. 263 to the Crime Control Act of 1973 that would require LEAA to come back to Congress for additional authorization after a two year period.

City Officials are well aware of the improvements in the LEAA program since its inception in 1968, but we feel that some scrutiny by the Congress bi-annually would strengthen this crime fighting program—which is so essential to local officials.

Congressional oversight every two years, in our opinion, will also give public officials at all levels an opportunity to exchange informatior regularly on the progress of the LEAA program.

Sincerely,

ALLEN E. PRITCHARD, Jr.,
Executive Vice President, National League of Cities.
JOHN J. GUNTHER,
Executive Director, U.S. Conference of Mayors.

THE SECRECY OF CORPORATE OWNERSHIP

Mr. MUSKIE. Mr. President, the current issue of the Indiana Law Review contains a significant article written by Senator METCALF. In this article, entitled "The Secrecy of Corporate Ownership," the Senator notes that—

Faceless, anonymous institutions control most of the stock in America. But the extent of that control is not known.

He also maintains that—

Corporate documents have never been public records. Although corporations are often described as creatures of the state, they have never been treated as creatures of the people.

Senator METCALF's remedy for this situation is full disclosure of the major stockholders in all large corporations.

Mr. President, I commend this article to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

THE SECRECY OF CORPORATE OWNERSHIP

(By LEE METCALF)

I. INTRODUCTION

Last year, Safeway carried an article entitled "Who Owns Us?" in its bi-monthly magazine. That article described the easily identifiable stockholders, the small investors. Safeway characterized those "typical" participants in the great American dream as follows:

"They are the retired couple on the corner lot; they are the young couple who put a small inheritance in trust for their new baby; they are the store manager in Kansas, the mailman who serves his store and the truck driver who brings his supplies. They are the farmer who sells us lettuce and the rancher who raises beef. They are the local policeman and the boy next door who is away at college." [1]

But, when the author of that article put romance aside and cited facts and figures, a different picture of Safeway ownership emerged. Stockholders with less than 100 shares constituted forty-eight porcent of the total stockholders and represented only four percent of the total ownership.[2] Nearly fifty percent of the stock was held by some of the largest insurance companies, pension funds, mutual funds, banks, and trusts in the United States.

Safeway's situation is not atypical. Faceless, anonymous institutions control most of the stock in America. But the extent of that control is not known. Even the Safeway advanceman did not tell the whole truth about

Footnotes at end of article.

ownership of his company's stock. He may not have known. The officers of Safeway, however, were most cooperative in providing additional information on the company's stockholders, and they should be commended for their public disclosure. Other corporations, including such giants as IBM, ITT, GM, Standard of New Jersey, and Texaco, would not supply information on their stockholders when this writer requested it.

The facts show that one institutional investor, Chase Manhattan Bank, holds and votes almost ten percent of Safeway's stock in just one of the three accounts of that bank listed among Safeway's top thirty stockholders. President Mitchell of Safeway and Mr. Stanton of his staff were most cooperative in verifying this fact. Somebody at Chase stamped "Kane and Company" on a proxy, and that proxy voted [3] almost ten percent of the total stock.

II. THE INVISIBLE "NOMINEE" SHAREHOLDERS

Kane & Co. has a lower profile than even Chase Manhattan Bank. A nominee for one of the numerous accounts at Chase, Kane & Co. does not even enjoy the sturdy brick walls and efficient tellers that give a bank personality. Instead, its character is shaped by the constant flow of sales and purchases that define the world of an investment account. It only exists on paper, and that can be a very nebulous existence.

Kane & Co. is joined in the investment world by such luminary and original "stockholders" as Cede & Co., "fronting" for the Stock Clearing Corporation, a wholly owned subsidiary of the New York Stock Exchange; Pace & Co., standing in for the Mellon National Bank and Trust; and Carson & Co., Powers & Co., and Teggee & Co., all pseudonyms for Morgan Guaranty Trust. Other "stockholders" include Fiveco, Forco, Octo, Oneco, Treco, and Twoco—devised perhaps by some computer operator—all code words for the Prudential Insurance Company.

These code names or "nominees," [4] representing some of the biggest investors in the United States, can be traced directly to the institutional investors of our country, especially bank trust departments. Concentration of stock control is a frightening fact of the modern economic scene.

The massive institutional investors' study report by the Securities and Exchange Commission, which was printed in 1971 as *House Document* 64,[5] almost came to grips with the problem. The study analyzed concentration of stockholdings of the 230 largest institutional investors in 800 representative companies listed with the New York and American Stock Exchanges or traded exclusively over the counter. The study did not name the banks, insurance companies, investment houses, and other institutional investors. But it did name the companies in which these institutional investors had sole voting rights and partial voting rights to stated percentages of stock. And this study showed that various combinations of from one to three of the 230 institutional investors had sole voting rights to at least ten percent of the stock in more than one-fourth of 620 representative companies.

Some of the companies in which one, two, or three institutional investors vote at least ten percent of the stock include: Proctor & Gamble; Sears, Roebuck; Ford and Chrysler; two oil companies, Gulf and Standard Oil of Indiana; three drug companies, Upjohn, Parke-Davis, and A. H. Robbins; four insurance companies, Aetna Life & Casualty, Hartford Fire Insurance, Connecticut General Insurance, and Farmers New World Life; and six airlines, Eastern, TWA, United, National, Delta, and Northwest.

Chase Manhattan Bank is a major stockholder in most of the nation's biggest airlines. In 1972 annual reports filed by airlines with the Civil Aeronautics Board, Chase Manhattan was listed as holding 6.5 percent of the stock in TWA, 9 percent of Eastern Airlines stock, 8.4 percent of the stock in National, and 7.5 percent of American Airlines stock. Although the CAB reports did not divulge it, Chase Manhattan also held 6.86 percent of the stock in Northwest, 7.26 percent in Western Airlines, and 8.57 percent in United. The bank held the stock through nominees.

Time, Inc., the publishing giant, lists National Shawmut Bank of Boston, Mellon National Bank and Trust, the New York Stock Exchange, and Morgan Guaranty Trust among its stockholders. Time's ownership, however, does not appear in that form on its stockholder list. Instead, some ownership is identified in the Orwellian terms of nominees—Chetco, Pace & Co., Ferro, Cede & Co., Carson & Co., Powers & Co., and Tegge & Co. Although several banks hold blocks of stock in the magazine, Time did not disclose some of them in its 1971 ownership report.

In the electric utilities arena, fourteen banks are among the top ten stockholders of ten or more utilities: Chase Manhattan Bank, using four different names, appears among the top ten stockholders of forty-two utilities; Morgan Guaranty Trust, using thirteen different nominees, appears among the top ten of forty-one utilities; Manufacturers Hanover Trust, using five different nominees, appears among the top ten of thirty-one utilities; First National City Bank of New York, using eight different nominees, appears among the top ten of twenty-nine utilities; State Street Bank and Trust of Boston, using eight different nominees, appears among the top ten of twenty-one utilities; and Bankers Trust of New York, using eight nominees, is among the top ten stockholders of twenty utilities.[6]

III. GOVERNMENT INSPECTION

The full extent of ownership concentration and the effects of that concentration are not known. Federal regulatory agencies have a spotted record at best in attempting to obtain ownership information, and many companies simply refuse to divulge such information on a voluntary basis.[7]

Corporate documents have never been public records. Although corporations are often described as creatures of the state, they have never been treated as creatures of the people. Their transactions are essentially private, and the lid on that privacy is only pried off for special groups of people. The list of privileged people has not grown much since the common law, and statutory enactments of the inspection franchise have not added to the exclusive club. The privilege is still basically limited to agents of the government, stockholders of the corporation, and, of course, officers of the corporation.[8]

Corporations are schizophrenic entities. They owe their existence to the laws of the state, but they are still formed by private individuals under private, voluntary agreements. The charter privilege provided by the state, however, makes the corporation more public than private as far as government inspection is concerned. In *Wilson v. United States* [9] the United States Supreme Court held that a state, in granting a charter, reserved a "visitational power" to inspect corporate records and that a corporate custodian had, therefore, assumed the duty of producing these quasi-public records.[10] Justice Brown, in an earlier decision, *Hale v. Henkel*,[11] wrote for the Court that a "corporation is a creature of the State . . . presumed to be incorporated for the benefit of the public" holding special privileges which are preserved only "so long as it obeys the laws" of the state and its charter.[12]

The federal government's powers of corporate regulation can be found in the United States Constitution: the commerce power,[13] the implied powers,[14] its war powers,[15] and its powers over post offices and the mail.[16] Those powers lay largely unused until the New Deal era, although Congress had established regulatory agencies many years earlier.[17] The 1930's saw new and vigorous attempts at business regulation, and the United States Supreme Court reacted protectively to the new usurpation of power.[18] It finally found solace in the commerce clause,[19] and the federal government has been trying to regulate ever since.[20]

Regulation led to investigations, reports, staff appraisals, agency intervention into corporate conduct, and agency access to corporate books and records. The Government needed information to carry out its responsibilities. Some agencies have attempted to compile stock ownership information on the corporations they regulate. That information is seldom broken down into a convenient form, however, and often has to be culled from other reporting requirements imposed on the corporations.

IV. SHAREHOLDER INSPECTION

The common law has long recognized a shareholder's right to inspect company books. The privilege is a property right which grows out of the stockholder's investment in the company and his right to protect that investment.[21]

The common-law privileges of inspection are not absolute, however, and must be tied to some "proper purpose," a vexatious and troublesome term that defies description. Generally, courts have agreed that a proper purpose is one that is germane to his interests as a stockholder, and that means his *economic* interests.[22]

Statutory authorization for shareholder inspection has diluted the privilege even more. While a few states decree that the statutory privilege is an expansion of common-law rights, most states still retain the old common-law "proper purpose" requirement.[23] In interpreting state inspection statutes, courts have ruled that they were meant only as a reaffirmation of the common law's "proper purpose" doctrine.[24] Even the absolutists find a way out of their purity. Since inspection is enforced by a mandamus action,[25] a remedy invoked at the discretion of the court, the court can properly inquire into the purpose of the remedy.

Fletcher has summarized the kinds of proper purposes as follows: [26] (1) to ascertain the condition of corporate affairs, (2) to determine the propriety of dividends, (3) to obtain a mailing list of stockholders to solicit proxies, (4) to ascertain the value of stock, (5) to prepare for a law suit unless the suit is inspired by ulterior motives, and (6) to defeat a merger. On the other side of the coin, improper inspection purposes include blackmail of the corporation, idle curiosity, speculation and "window-shopping," annoyance and harassment, promotion of personal business interests, and aiding a competitor or divulging business secrets.[27]

Proper purpose is not the only stumbling block a shareholder must leap on his way to the corporate records. He has to get there at the right time. He has to be at the right place. And he has to schedule his trip for the right time of year, since the books might be preempted for corporate use. He should buy his stock some months, or years, in advance of inspection; and he better save his money, so he can buy a substantial quantity of stock.

State inspection statutes limit perusal to shareholders of record for some period of time, usually six months.[28] Other states require a minimum percentage of ownership, usually one to five percent. Some states combine the two requirements. Almost all states limit shareholder access to certain hours of the day and a particular inspection site.[29]

Footnotes at end of article.

The Indiana inspection statute is one of the least complicated of the state statutory regulations. It requires each corporation to keep a shareholders list, and requires that—

"[a]ll such books, records and lists of a corporation shall be open to inspection and examination during the usual business hours for all proper purposes by every shareholder of the corporation, or his duly authorized agent or attorney." [30]

Only the proper purpose doctrine and the business hours requirement dilute an otherwise absolute privilege.[31]

Florida [32] and New York have tied up the privilege with practically every limitation known to the inspection statutes. Both states limit inspection to shareholders of record for at least six months. Florida also requires ownership of at least one percent of the outstanding stock. Both states permit stockholders to combine their stock ownership to obtain inspection, and New York [33] incorporates the "business purpose" doctrine into the inspection requirements.

The recitation of provisions from New York and Florida inspection laws is not meant to demean the attitude toward stockholders in those states. Other states have provisions that are just as confusing and that further tie up the principles of common-law inspection.

V. SOME RECENT DEVELOPMENTS

Economic interests are not the only reason shareholders may desire inspection. Ralph Nader and the Project for Corporate Responsibility typify the approach to social attitudes which many stockholders desire. Two recent court cases illustrate this collision of emerging social attitudes and the traditional test of corporate inspection.

The most celebrated case appears to be *State ex rel. Pillsbury v. Honeywell, Inc.*,[34] a 1971 Minnesota decision. The shareholder, an heir to the flour millions, was also born with a social conscience. He was particularly concerned with the production of munitions by Honeywell, so he purchased stock in that company to conduct a proxy campaign and perhaps change the policies of the company. He was very frank in his motives, openly admitting the purpose of his stock purchase and his membership in the "Honeywell Project," a group of people also opposed to the production of munitions.

That honestly led to Pillsbury's demise. The Supreme Court of Minnesota upheld Honeywell's refusal to permit inspection and refused to issue a writ of mandamus to allow such inspection. Pillsbury had run aground on the "business purpose" requirement, which mandated an economic, and not a social awareness. The Minnesota court noted that Pillsbury "had utterly no interest in the affairs of Honeywell" until he learned of the corporation's production of fragmentation bombs and that after obtaining this knowledge Pillsbury purchased stock for the "sole purpose of asserting ownership privileges in an effort to force Honeywell to cease such production." [35] The court condemned the holding of stock for such a purpose [36] and suggested that "but for his opposition to Honeywell's policy, petitioner probably would not have bought Honeywell stock, would not be interested in Honeywell's profits and would not desire to communicate with Honeywell's shareholders." [37] The court in *Pillsbury* noted that the shareholder's avowed purpose in buying the Honeywell stock was to place himself in a position to try to "impress his opinions favoring a reordering of priorities upon Honeywell management and its other shareholders." Such a motivation, the court emphasized, could hardly be deemed a "proper purpose germane to his economic interest as a shareholder." [38]

For future Minnesota crusaders, the teaching of *Pillsbury* is clear: Eschew any reference to "political" or "social" concerns. Instead, the corporate crusaders should focus on claims of mismanagement of corporate funds or indicate a desire to communicate with shareholders about the "economic future" of the corporation, Courts in at least one state have already adopted that approach. They have pointedly said that a secondary improper purpose will not defeat a primary proper purpose.[39]

The social stockholder may fare a little better under federal inspection statutes—at least that is the conclusion of some writers. But their opinion is based on a case that only partially approaches the problem. The case, *Medical Committee for Human Rights* v. *SEC*,[40] arose under Securities and Exchange Commission rule 14a-8.[41] That section establishes provisions which require management to include stockholder proposals in proxy statements of the corporation, unless the proposals come within one of several enumerated exceptions.

The Committee, a group of doctors and psychiatrists across the United States, was opposed to the use of napalm in the Vietnam war. It became a stockholder in the Dow Chemical Company to stop the production of napalm by that company. The Committee submitted an amendment to Dow's articles of incorporation which called for a prohibition of napalm production by the company. Dow refused to submit the proposal with its proxy statement, and the Securities and Exchange Commission upheld that refusal. Dow and the SEC probably based their refusal on the exceptions to rule 14a-3, as set out in subsection (c) of that rule. The proposal was doubtlessly either not considered a "proper subject for action by security holders" or was considered as being submitted to promote "general economic, political, racial, religious, social or similar causes. . . ." [42]

The Court of Appeals for the District of Columbia overruled the Exchange Commission on a technicality and remanded the order to the Commission for reconsideration.[43] But in the process of reaching that decision, the *Medical Committee* court made some interesting observations about stockholder inspection. The court strongly implied that management should not be allowed to automatically block shareholder inquiry into company policies which might be economically profitable but, perhaps, socially irresponsible.[44] While the court conceded that the propriety of corporate political decisions was irrelevant to the controversy at hand, it stressed that of "immediate concern was the question of whether corporate proxy rules can be employed as a shield to isolate such managerial decisions from shareholder control." [45] Although the language may appear as a little venting-of-the-spleen on the part of the judges, the court's language still points away from the "business as usual" requirements of the Minnesota court.

When *Medical Committee* was appealed, the United States Supreme Court avoided a direct ruling on the propriety of the stockholder activity.[46] Instead, the Court ruled that the refusal by Dow was moot and held that it was "purely a matter of conjecture" as to whether the Committee would resubmit the proposal in 1974 and, if it did, whether Dow would accept it.[47] Political and social causes are still in limbo, a least as far as the provisions of section 14(a) of the Securities and Exchange Act are concerned.

Admittedly, the inspection right asserted by the stockholders in the *Pillsbury* case and the proxy right asserted by the stockholders in the *Medical Committee* case are different. But both cases deal with the broader question of stockholder access to corporate records and the corporate decision-making processes. The *Medical Committee* case is a much easier case to live with for the corporate reformer.

VI. PUBLIC ACCESS

The discussion so far has primarily been concerned with the inspection rights of shareholders and the Government. Inspection beyond that, in both state statutes and court cases, is limited to agents of the shareholder, officers and managers of the corporation, and judgment creditors.[48]

The record for public access is not without precedent, however. Some stockholder information has been available at many federal agencies for years. However, these lists are limited to the very few major holders who often hide their identity and the quantity of their holdings through use of nominees.[49]

The consequences of our present legal and corporate attitude toward ownership disclosure are predictable. The corporate election process in America today is as rigged as elections are in the Soviet Union. The outcome is as predictable. The accompanying propaganda is as self-serving.

Consider the procedures for an annual stockholders' meeting. The agenda and the candidates are determined well in advance by the corporate management. It polices the election. It chooses the auditors. Great effort and considerable expense, months prior to the meeting, are required to obtain consideration of the most modest proposals that have been offered by management. If the attempt to get a candidate or an issue on the ballot is successful, identification of the voting stockholders and timely communication with them is difficult or impossible. The proxies of a few key institutional investors decide the election, which is then publicly construed by the corporation publicists as a ringing endorsement of its past activities and a mandate to continue doing whatever it decides to do.

The flaw is secercy; the remedy disclosure. Last year the writer introduced legislation, S. 3923,[50] which would require corporations that gross more than $10 million a year to disclose quarterly, to the Library of Congress, the names and addresses of each person or institution empowered to vote one percent or more of the voting securities of the corporation. This Corporate Ownership Reporting Act (CORA) further provided for publication of these ownership reports by the Library of Congress and sale of the ownership document by the Superintendent of Documents.

Studies now in progress indicate that large banks may have voting rights to more stock in individual companies than statutes and regulations permit. A Library of Congress analysis of material supplied, at the writer's request, by the Federal Communications Commission, shows that the largest stockholder in Columbia Broadcasting System, with sole or partial voting rights to more than fourteen percent of the stock, is Chase Manhattan Bank. It has similiar voting rights to 4.5 percent of the stock in RCA Corporaion, parent of the National Broadcasting Company. Bankers Trust has voting rights to more than ten percent of the stock in the American Broadcasting Company and 9.8 percent of the stock in Metromedia. The banks mentioned above, and a few others, also have substantial holdings in other broadcast companies.

Under FCC rules, one owner—individual or institutional investor—may control seven AM, seven FM, and seven TV stations (no more than five of the latter can be VHF stations). Ownership is also conditioned by the "duopoly rule," which prohibits ownership of two TV. FM, or AM radio stations which serve the same area. Beyond those liberal ownership provisions, no individual or bank, until last year, could own more than one percent of the stock of other broadcast companies that have fifty or more stockholders. Since 1968, mutual funds have been permitted to own three percent. Under more lenient regulations adopted last year,[51] banks are permitted to control five percent of the stock of other broadcast companies. The three percent limit for mutual funds, and the one percent limit for individuals, was not changed.

Unfortunately, the FCC was unaware of information in its own files which shows the concentration of stock which its own staff and the Library of Congress subsequently varified. The problem, as Commissioner Nicholas Johnson stated later last year, "is that the Commission's ownership reports for a variety of reasons, are not providing the relevant information on institutional holdings of broadcast stock." [52] A major reason, evident from examination of the files, is use of numerous nominees, rather than the single proprietary owner, in reports filed with the Commission. The FCC is certainly not the only governmental agency which lacks information: As Ralph Nader has recently stated, "[n]either the SEC, the Civil Aeronautics Board nor the Federal Power Commission penetrates the veil of so-called nominee shareholders to determine who the actual owners are—corporate or individual—of the industries they purport to regulate." [53]

VII. CONCLUSION

The banks that vote huge blocks of other person's stock constitute the legislative branch of corporate government. Power of the institutional investors is further increased through two other methods, control of credit and interlocking directorates. The CORA bill the writer is now drafting, for introduction and consideration in the Ninety-third Congress, will provide for disclosure in those two areas as well as stock voting rights.

The equipment and procedures now designed to service assets can and should be altered to provide ready access to the names and addresses of the individuals empowered to vote the principal blocks of stock in major corporations, principal creditors and the amount of indebtedness, and the affiliations of principal officials with officers of other companies. That information should be compiled, kept up-to-date, and broadly available.

If the Government Printing Office prints a corporate ownership report, it will become one of the best sellers the GPO ever issued. The report will be of inestimable value to regulatory commissions and the Justice Department in enforcing regulations and antitrust law. It is a necessary tool for persons who want to work within the system.

Ownership and control of many of our principal corporations have slipped into the hands of very few people. Corporate secrecy disguises, perpetuates, and accelerates their control.[54] They must be identified, and raised from low profile to sharp silhouette, so that they can be held accountable to the customers and stockholders, and to the laws enacted by those of us elected under the principle of "one man, one vote."

FOOTNOTES

[1] *Who Owns Us?* SAFEWAY NEWS, Feb.-Mar. 1972, reprinted in the CONG. REC., vol. 118, pt. 18, p. 22794.

[2] *Id.*

[3] For a general overview of proxy voting, see H. HENN, HANDBOOK OF THE LAW OF CORPORATIONS AND OTHER BUSINESS ENTERPRISES § 196 (1970) [hereinafter cited as HENN]; Axe, *Corporate Proxies*, 41 MICH. L. REV. 38 (1942); Loss, *The SEC Proxy Rules in the Courts*, 73 HARV. L. REV. 1041 (1960). It should be remembered that, in the parlance of corporation law, "controlling" stockholders are not, in the vast majority of instances, majority stockholders. *See* Perlman v. Feldmann, 219 F.2d 173, 175 (2d Cir.), *cert. denied*, 349 U.S. 952 (1955).

[4] A "nominee" list is compiled periodically and distributed to members of the American Society of Corporate Secretaries, Inc The twentieth edition of the list, which, in the words of the society's Executive Director, "will be invaluable in proxy solicitation and stock transfer work," was made public by this author in mid-1971 when the entire list of nominees, their principals, and addresses was inserted in the *Congressional Record*, vol. 117, pt. 17, p. 22142.

Although banks do not usually own the stock which is in the name of their various nominees, the banks frequently vote such stock. Accordingly, Indiana attorneys and investors may find it useful to know the nominees of some of the state's major financial institutions, as listed in the 1971 compilation *Id.* at 22,208–09.

American Fletcher National Bank & Trust Co. (Indianapolis): *Nominee*—Nom & Co.

First Bank & Trust Co. of South Bend: *Nominees*—Bend & Co., First & Co., and Mish. & Co.

Indiana Bank & Trust Co. (Fort Wayne): *Nominees*—Doehrman & Co., Dokar & Co., Goodin & Co., Hudson & Co., Indco, Janco, Jem & Co., Ladig & Co., Lenk & Co., Perry & Co., Piver & Co., Ranke & Co., Strutz & Co., Swenski, Witco, and Woolner & Co.

Indiana National Bank (Indianapolis): *Nominees*—Amstat & Co., Exem & Co., Indun & Co., and Novus & Co.

Irwin Union Bank & Trust Co. of Columbus: *Nominee*—IU & Co.

Lafayette National Bank, Trust Dept.: *Nominees*—Bondinc & Co., Bonding & Co., Comstock & Co., Fonla & Co., Purla & Co., Salus & Co., Scola & Co., and Swela Co.

Merchants National Bank & Trust Co. of Indianapolis: *Nominees*—Fren & Co., Merit Co., and Zel & Co.

Second National Bank of Richmond: *Nominees*—Notax & Co., Prof. & Co., and Secnab & Co.

St. Joseph Bank & Trust Co. (South Bend): *Nominees*—Bow & Co. Buyco, Saint & Co., and SJBIT & Co.

Terre Haute First National Bank: *Nominee*—Thafnab & Co.

[5] H.R. Doc. No. 64, 92 Cong., 1st Sess. (1971).

[6] It should be emphasized that many authorities consider a five percent voting interest in a widely-held company to be controlling if the other votes are scattered. The other banks listed among the top ten stockholders of ten or more utilities are New England Merchants National Bank, Bank of New York, Northwestern Bank of Minneapolis, United States Trust of New York, Continental Illinois National Bank and Trust of Chicago, Girard Trust of Philadelphia, National Shawmut Bank of Boston, and Chemical Bank of New York.

[7] Those companies which refuse to voluntarily disclose to the public their ownership information have, unfortunately, the weight of the law on their side. Shareholders, of course, can obtain shareholder lists and other records for various purposes. *E.g.*, Guthrie v. Harkness, 199 U.S. 148 (1905) (to ascertain whether the corporation was being mismanaged); Hauser v. York Water Co., 278 Pa. 387, 123 A. 330 (1924) (to determine corporation's condition in order to be able to vote intelligently and attempt to obtain proxies); *see also* Nationwide Corp. v. Northwestern Nat'l Life Ins. Co., 251 Minn. 255, 87 N.W.2d 671 (1958); E. ARANOW & H. EINHORN, PROXY CONTESTS FOR CORPORATE CONTROL 40–50 (2d ed. 1968); Newman, *Inspection of Stock Ledgers and Voting Lists*, 16 Sw. L.J. 439, 450 (1962). However, this traditional type of disclosure does not solve the problems raised in this Article. The beneficial owners of stock may properly be afforded some degree of anonymity from the general public, but the proprietary owners—who vote the stock—should be disclosed.

[8] For a more complete discussion of inspection of corporate records, see 5 W. FLETCHER, PRIVATE CORPORATIONS §§ 2213–57 (perm. repl. ed. 1967) [hereinafter cited as FLETCHER].

[9] 221 U.S. 361 (1911).

[10] Writing for the Court, Justice Hughes opined:

"[w]hat then is the status of the books and papers of a corporation, which has not been created as a mere instrumentality of government, but has been formed pursuant to voluntary agreement and hence is called a private corporation? They are not public records in the sense that they relate to public transactions, or, in the absence of particular requirements, are open to general inspection or must be kept or filed in a special manner. . . . But the corporation form of business activity, with its chartered privileges, raises a distinction when the authority of government demands the examination of books. That demand, expressed in lawful process, confining its requirements within the limits which reason imposes in the circumstances of the case, the corporation has no privilege to refuse. . . . This is involved in the reservation of the visitatorial power of the State, and in the authority of the National Government where the corporate activities are in the domain subject to the powers of Congress." *Id.* at 382. *See also* George Campbell Painting Corp v. Reid, 392 U.S. 286 (1968), *aff'g* 20 N.Y.2d 370, 229 N.E.2d 602, 283, N.Y.S. 2d 31 (1967); Wild v. Brewer, 329 F.2d 924 (9th Cir.), *cert. denied*, 379 U.S. 914 (1964); United States v. White, 322 U.S. 694 (1944); Grant v. United States, 222 U.S. 74 (1913); Meltzer, *Required Records, the McCarran Act, and the Privilege Against Self-Incrimination*, 18 U. CHI. L. REV. 687 (1951).

[11] 201 U.S. 43 (1906).

[12] *Id.* at 74–75. The Court continued:

"There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a State, having chartered a corporation to make use of certain franchises, could not in the exercise of its sovereignty inquire how these franchises had been employed, and whether they had been abused, and demand the production of the corporate books and papers for that purposes." *Id.* at 75.

[13] U.S. CONST. art. I, § 8, cl. 3. *See, e.g.*, Ellingston Timber Co. v. Great Northern Ry., 424 F.2d 497 (9th Cir.), *cert. denied*, 400 U.S. 957 (1970). All of the major federal acts which directly regulate corporations are, of course, premised on the commerce clause. Sherman Antitrust Act, 15 U.S.C. §§ 1–7 (1970); Clayton Act, 15 U.S.C. §§ 12–27 (1970); Robinson-Patman Act, 15 U.S.C. § 13c (1970); Fair Trade Act, 15 U.S.C. § 45 (1970). *See also* HENN §§ 309–16.

[14] *See* U.S. CONST. art. I, § 8, cl. 18.

[15] U.S. CONST. art I, § 8, cl. 11. *See, e.g.*, Varney v. Warehime, 147 F.2d 238 (6th Cir), *cert. denied*, 325 U.S. 882 (1945).

[16] U.S. CONST. art. I, § 8, cl. 7. *See, e.g.*, Pensacola Tel. Co. v. Western Union Tel. Co., 96 U.S. 1 (1878).

[17] The Interstate Commerce Commission was established in 1887, and the Federal Trade Commission was created in 1914, to note only two.

[18] *E.g.*, Carter v. Carter Coal Co., 298 U.S. 238 (1936); A.L.A. Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935); Railroad Retirement Bd. v. Alton R.R., 295 U.S. 330 (1935).

[19] *See generally* United States v. Darby, 312 U.S. 100 (1941); NLRB v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937).

[20] *See generally* Fleischer, *"Federal Corporation Law": An Assessment*, 78 HARV. L. REV. 1148 (1965).

[21] *See* Guthrie v. Harkness, 199 U.S. 148 (1905); FLETCHER § 2213.

[22] FLETCHER § 2214.

[23] *See id.* § 2215.1 & nn.45–48. Moreover, even when a "proper purpose" is established and corporations are required to disclose shareholder lists, the corporations will normally require the stockholder to come in and compile the list—even though management could furnish the list with little effort. *See* ARANOW & EINHORN, *supra* note 7, at 49–50.

[24] FLETCHER § 2215.1.

[25] Indianapolis St. Ry. v. State *ex rel.* Cohen, 203 Ind. 534, 181 N.E. 365 (1932); Charles

Hegewald Co. v. State *ex rel.* Hegewald, 196 Ind. 600, 149 N.E. 170 (1925).

[26] FLETCHER §§ 2223–25.1.

[27] *Id.* §§ 2226–26.4.

[28] *See, e.g.,* Sawyers v. American Phenolic Corp., 404 Ill. 440, 89 N.E.2d 374 (1949) (construing the Illinois statute requiring ownership for six months).

[29] For a complete compilation of state corporation laws, see United States Corporation Council Manual, Vols. I–II (1971), in particular, subject heading seventeen for inspection rights.

[30] IND. CODE § 23–1–2–14 (1971).

[31] *Cf.* S.F. Bowser & Co., Inc. v. State *ex rel.* Hines, 192 Ind. 462, 137 N.E. 57 (1922) (registered owner who has assigned entire beneficial interest in shares has no right to inspect).

[32] FLA. STAT. ANN. § 608.39 (1956): The stock book or stock lists shall be open for;

"(1) . . . at least three business hours each business day for inspection by any judgment creditor of the corporation or any person who shall have been for at least six months immediately preceding his demand a record holder of not less than one percent of the outstanding shares of such corporation, or by any officer, director, or any committee or person holding or authorized in writing by the holders of at least five percent of all its outstanding shares. Persons so entitled to inspect stock books or stock lists may make extracts thereform."

For construction of this statute, see Florida Tel. Corp. v. State *ex rel.* Peninsular Tel. Co., 111 So. 2d 677 (Fla. App. 1959).

[33] N.Y. BUS. CORP. LAW § 624 (McKinney Supp. 1972):

"(b) Any person who shall have been a shareholder of record of a corporation for at least six months immediately preceding his demand, or any person holding, or thereunto authorized in writing by the holders of at least five percent of any class of the outstanding shares, upon at least five days' written demand shall have the right to examine in person or by agent or attorney, during usual business hours, its minutes . . . record of shareholders and to make extracts therefrom. . . .

"(c) An inspection authorized by paragraph (b) may be denied to such shareholder or other person upon his refusal to furnish to the corporation, its transfer agent or registrar an affidavit that such inspection is not desired for a purpose which is in the interest of a business or object other than the business of the corporation and that he has not within five years sold or offered for sale any list of shareholders of any corporation of any type or kind, whether or not formed under the laws of this state, or aided or abetted any person in procuring any such record of shareholders for any such purpose. . . ." *See In re* Steinway, 159 N.Y. 250, 53 N.E. 1103 (1899); Levine v. Pat-Plaza Amusements, Inc., 67 Misc. 2d 485, 324 N.Y.S.2d 145 (Sup. Ct. 1971).

[34] 391 Minn. 322, 191 N.W.2d 406 (1971), *noted in* 46 TUL. L. REV. 1002 (1972).

[35] *Id.* at 329, 191 N.W.2d at 411.

[36] *Id., quoting* Charles A. Day & Co. v. Booth, 123 Me. 443, 447, 123 A. 557, 558 (1924).

[37] 391 Minn. at 329, 191 N.W.2d at 411. *See also* Wall Street Journal, Jan. 11, 1972, § 1, at 4, col. 1 (indicating that corporate management was being flooded with anti-war, environmental, and other proxy proposals).

[38] 391 Minn. at 329, 191 N.W.2d at 411. One writer, perhaps tongue-in-cheek, remarked that, "[t]he court did not, however, imply that a shareholder whose political judgment led him to believe that a corporate policy could lead to economic injury would have an improper purpose." 46 TUL. L. REV. 1002, 1008 (1972).

[39] Credit Bureau Reports, Inc. v. Credit Bureau of St. Paul, Inc., 290 A.2d 691 (Del. 1972); General Time Corp. v. Talley Indus., Inc., 240 A.2d 755, 756 (Del. 1968).

[40] 432 F.2d 659 (D.C. Cir. 1970), *vacated as moot,* 404 U.S. 403 (1972). *See* 57 VA. L. REV. 331 (1971).

[41] 17 C.F.R. § 240.14a-8 (1972) provides:

"(a) If any security holder entitled to vote at a meeting of security holders of the issuer shall submit to the management of the issuer, within the time hereinafter specified, a proposal which is accompanied by notice of his intention to present the proposal for action at the meeting, the management shall set forth the proposal in its proxy statement. . . ."

[42] *Id.* § 240.14a-8(c)(1) & (2) (1972). *See also* Mills v. Electric Auto-Lite Co., 396 U.S. 375, 377 (1970); J.I. Case Co. v. Borak, 377 U.S. 426 (1964). A shareholder aggrieved by management's noncompliance with proxy rules has a private right of action which may be brought in federal district court to supplement SEC enforcement.

[43] The stockholder's petition for inclusion was remanded to the SEC for reconsideration, but this time the SEC had to clearly set out in its record of approval or denial the reasons for its action. The court declared that "the basis for [the SEC's] decision [must] appear clearly on the record, not in conclusory terms but in sufficient detail to permit prompt and effective review." 432 F.2d at 682. The *Medical Committee* decision destroyed the widely held assumption that the SEC's advisory processes were not subject to review. *See, e.g.,* K. DAVIS, ADMINISTRATIVE LAW TEXT 514 (1959).

[44] Writing for the court, Judge Tamm declared,

"[n]o reason has been advanced in the present proceedings which leads to the conclusion that management may properly place obstacles in the path of shareholders who wish to present to their co-owners, in accordance with applicable state law, the question of whether they wish to have their assets used in a manner which they believe to be more socially responsible but possibly less profitable than that which is dictated by present company policy. Thus, even accepting Dow's characterization of the purpose and intent of the Medical Committee's proposal, there is a strong argument that permitting the company to exclude it would contravene the purpose of section 14(a)." 432 F.2d at 681.

[45] *Id. See also* Bayne, *The Basic Rationale of "Proper Subject,"* 34 U. DET L.J. 575, 579 (1957). The circuit court in *Medical Committee* continued,

"[w]e think that there is a clear and compelling distinction between management's legitimate need for freedom to apply its expertise in matters of day-to-day business judgment, and management's patently illegitimate claim of power to treat modern corporations with their vast resources as personal satrapies implementing personal political or moral predilections. It could scarcely be argued that management is more qualified or more entitled to make these kinds of decisions than the shareholders who are the true beneficial owners of the corporation; and it seems equally implausible that an application of the proxy rules which permitted such a result could be harmonized with the philosophy of corporate democracy which Congress embodied in section 14(a) of the Securities and Exchange Act of 1934." 432 F.2d at 681.

[46] 404 U.S. 403 (1972).

[47] *Id.* at 406. Typically and eloquently, Justice Douglas dissented and condemned the "Court's abdication of its constitutional responsibility to decide cases properly within its jurisdiction." *Id.* at 411. Justice Douglas also chorused the reform attitude:

"The modern super-corporations, of which Dow is one, wield immense, virtually unchecked, power. Some say that they are "private governments," whose decisions affect the lives of us all. The philosophy of our time, I think, requires that such enterprises be held to a higher standard than that of the "morals of the marketplace" which exalts a singleminded, myopic determination to maximize profits as the traditional be-all and end-all of corporate concern." *Id.* at 409–0.

[48] FLETCHER §§ 2213–57 (a comprehensive list of persons who usually have access to corporate records, and the reasons for access).

[49] A nominee list, priced at $20, is available from the American Society of Corporate Secretaries, Inc., 9 Rockefeller Plaza, New York, N.Y. 10020. *See* note 4 *supra.* The 1971 list is reprinted in the CONG. RECORD, vol. 117, pt. 17, pp. 22142–240.

[50] 92 Cong., 2d Sess. (1972). *See* the CONG. REC., vol. 118, pt. 22, p. 28459.

[51] FCC 72–391, 75954, Dock. No. 18751, May 3, 1973, *reprinted in the* CONG. REC., vol. 118, pt. 18, p. 22787.

[52] FCC 72–525, 79407, File No. BTC–6682, June 14, 1972, *reprinted in the* CONG. REC., vol. 118, pt. 18, p. 22789.

[53] *Hearings on the Role of Giant Corporations Before the Subcomm. on Monopoly of the Senate Select Comm. on Small Business,* 92d Cong., 1st Sess., pt. 2, at 1056 (1972).

[54] In Ralph Nader's words:

" '[c]orporate secrecy' is not merely an aspect of the power of giant corporations. It is the first and usually decisive obstacle to knowledge of and response to the abuses, illegalities, and injustices which corporations heap upon citizens, governments, and environments. Without the ability to deny to the government, the small businessman, and the ordinary citizen literally every kind and form of information about their activities, large business enterprises simply could not dominate—as they too often do—our economic and political life. For control of the process of information is control of the process of policy." *Id.* at 1047. *See also* "Working Paper 'A'—The Nature and Dimensions of Corporate Secrecy," prepared by Senator Gaylord Nelson and Senator Ray Watts. *Id.* at 1203.

THE HUMPHREY AMENDMENT TO FEDERAL FINANCING BANK ACT

Mr. HUMPHREY. Mr. President, last Friday I was in London on official business, at the request of the Senate, heading its delegation to the Ditchley Conference in England with British Parliamentary leaders. Therefore, Senator PROXMIRE graciously agreed to bring up my amendment No. 228, of which he is a cosponsor, during floor consideration of S. 925. I was very pleased that the Senate adopted this exemption of the Farmers Home Administration from section 7 of the Federal Financing Bank Act by a 54 to 23 margin.

The amendment excludes the Farmers Home Administration from the crippling review by the Treasury Department previously required in section 7 of the act. Advance Treasury Department approval of the terms, timing, and conditions of Farmers Home Administration obligations is not only unnecessary but also not in the best interest of our rural citizens. Under present procedures, debt activities of the Farmers Home Administration are closely coordinated with the Treasury. The only reason I can think of for requiring prior Treasury approval is to permit them to control and allocate credit to the detriment of the Farmers Home

Administration and the cause of rural housing.

Housing conditions in rural America today are a national disgrace. Inadequate kitchen and bath facilities, water supply, heating systems, and a general situation of dilapidation characterize much of our housing in these areas. Given these conditions, this certainly is no time to curtail the flow of capital needed to remedy the sorry state of housing in rural America. We should be aggressively seeking out new sources of capital funds so that this pressing domestic social need can be given the support it needs and deserves.

S. 925 would create a serious conflict of interest for the Treasury that would hurt the FHA, since its obligations are marketed to the same pool of investors as Treasury obligations and it is virtually inevitable that Treasury will control the timing and other characteristics for the benefit of its own obligations. Is it realistic to expect Treasury to pursue any other course? To give an entity without any experience or expertise whatsoever in rural housing the life and death decision over substantive aspects of a rural housing program is, in my opinion, not only unfair but unwise as well. Treasury objections could hold up funding for rural housing indefinitely. And these decisions would not be subject to review by the congressional committees with substantive responsibility in the rural housing area. The delay of the operations and activities of the Farmers Home Administration could destroy the provision of rural housing completely because the availability of mortgage credit in many rural areas comes only from the Farmers Home Administration. There is no one else who will make these loans.

Therefore, I offered an amendment to section 7 of S. 925 to add a subsection (3) to section 7(a) to read as follows:

. . . (3) obligations issued or sold by the Farmers Home Administration.

Again, Mr. President, I express my appreciation to all of my colleagues for their support in passing this amendment.

MISS LILY OF MARVELL

Mr. FULBRIGHT. Mr. President, Miss Lily Peter of Marvell, Ark., is a remarkable woman. She is a farmer, poet, philanthropist, patron of the arts, and much more.

Mid-South magazine, published with the Memphis Commercial Appeal, recently published an article on Miss Lily, as Arkansas' poet laureate is widely known.

The article relates some of Miss Lily's many accomplishments and what the writer calls her "philanthropic feats." She has done much to promote culture, music, and education in Arkansas. Several years ago she brought Eugene Ormandy and the Philadelphia Orchestra to Little Rock for two concerts. More recently she helped bring pianist Van Cliburn to Helena for a concert in the Lily Peter Auditorium. She set up music scholarship funds at the University of Arkansas and Arkansas State University.

Mr. President, I ask unanimous consent that the article entitled "Miss Lily of Marvell" by James G. Andrews, Jr., be printed in the RECORD.

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

MISS LILY OF MARVELL

A few miles from Marvell, Ark., on a long and lonely stretch of gravel road, Miss Lily Peter pulled her pickup truck to a stop near the single gas pump at the plantation store.

Across the road lay the cotton fields—part of the 8,000 acres which enable Lily Peter to clear more than $100,000 a year from cotton, soybeans and a super-successful ginning operation.

This was the land that had made her one of the wealthiest farmers in East Arkansas. But her riches were hardly reflected in the tired old store or her home next door.

Not ante bellum but antiquated, the house is a plain, wood cottage with asbestos singles. No phone wires or TV antenna are affixed to the house, for good reason. 'Miss Lily' as she is called by Phillips Countians, has no need for telephone or television.

The diminutive—5-2 and ⅛, by her own reckoning—and dainty woman who is Arkansas' poet laureate has other uses for her time and her money.

And, besides, there is a phone in the store, if she just has to make a call.

As she stood in the road, talking with two of her employes, the mournful strains of a Charley Pride record overran the stillness of the countryside, pouring from the radio of a car parked across the road.

The night before, about 32 miles down the road in Helena, Miss Lily Peter had sat in all her glory, reigning over the festivities in the million-dollar Lily Peter Auditorium.

On the stage of that fantastic facility—boastfully dubbed "Carnegie Hall With a Southern Drawl"—internationally renowned pianist Van Cliburn had enthralled an audience of nearly 1,400 with a powerful performance of Beethoven's "Sonata in F minor, Opus 57," among other selections.

That someone of Van Cliburn's stature would be performing in a town the size of Helena (population 21,422, including West Helena), or that he would have there so magnificent an art center in which to perform, seemed highly contradictory.

But whenever and wherever Miss Lily Peter is involved, folks have learned to expect the unexpected.

And if she seemed to be enjoying the Cliburn recital more than anyone else, it was only fair. For while everyone else had gotten in free to hear this rare performance, Miss Lily, for all impractical purposes, had paid $4,250 for her eighth-row seat—or the evening would never have come about.

Also, had it not been for her role, and bankroll, the very art center itself might never have been constructed. Yet, there it stands on the campus of Phillips County Community College, with its modern, steeply sloped lines and its striking contrast of champagne-hued brick and ebony shingles.

Miss Lily was chairman of the fund-raising campaign for the center, and personally contributed $35,000, resulting in the auditorium's being named for her. Her sculptured portrait rests on the lobby wall, nestled amid plaques denoting those who gave $50 or more, placed alphabetically, from Aebly Grocery & Market to William Young.

Miss Lily's philanthropic feats have brought her nationwide notice in newspapers as prestigious as The New York Times. And she once took Peter Jennings and an American Broadcasting Co. television crew sloshing around in the Big Cypress Bayou, behind her home, when that newsman came to interview her.

Such publicity has helped spawn some of the little "legends" about Miss Lily—tales she relishes, but is quick to rectify.

"It's been said I drive a tractor all the time, and I don't—although I do drive my pickup truck all over creation. They also say I speak 11 languages, but that's because they've heard me speaking Spanish, and Spanish sounds like six or seven different languages. And they say that I am not afraid of the devil himself, because I have lived alone so many years."

Many newspapers carried the information that she was "nearly 100" years old, after she told a reporter that in jest. She will not tell her age, but she will admit that the antique camera she uses to snap nature shots for photographic exhibits was given to her "by a beau who wanted to marry me" in 1913.

She never bought a new camera, not for sentimental reasons, but because, as she explains it, "the old one still works just fine." For the same reason, she drives a Pontiac that is seven years old and has weathered nearly 100,000 miles. And she has no cook or maid, since she is perfectly able to do her own cooking and cleaning.

Her frugality will lead to such measures as driving the long way from Marvell to Memphis, to avoid paying the $1 toll on the Mississippi River bridge at Helena. But the pennies she pinches in all these pursuits, she pitches to the wind in displays of cultural zeal.

She has donated much and often to colleges and organizations in Arkansas and other states, and in 1969, she paid $60,000 to bring Eugene Ormandy and the Philadelphia Orchestra to Little Rock for two concerts—as a "gift to the people of Arkansas" during the state's sesquecentennial celebration.

"I wanted to bring great music within the reach of every person in Arkansas, to show the world we are at least as civilized as other places, and more civilized than some," she says.

She charged a modest admission for the two concerns, and netted $17,800 for two sell-outs. Then she added $2,200 more of her money to that to set up music scholarship funds of $10,000 each at the University of Arkansas and Arkansas State University.

Flitting about in her old auto and sporting the stylish brown wig she always wears in public, Miss Lily is forever stopping by to "chat" with folks all over Phillips County.

Those so honored may feel the combined floodgates of Webster's and The World Book have been opened upon them, so vast is her vocabulary and so voluminous her store of information.

Ever smiling, she holds her audiences with anecdotes which grow into epic narratives as she goes off on one "detour" after another before miraculously returning to her original point.

"Do you know that Ohio was never officially admitted to the Union?" she may suddenly ask in a discourse on Van Cliburn's affinity for turnip greens and cornbread. "It never was. It became a state in 1803 and applied for admission, but somehow was lost in the shuffle in Congress. And we just called it a state and forgot about it."

She is equally as divided in her interests, a veritable jack of all trades and master of many—a shrewd farmer who somehow got the bulk of her cotton in last year, while the crops of many others stood rotting in the fields, a ginner of note, a poet and writer, an amateur photographer, a community leader and unabashed and unsurpassed lover of music and the arts.

She has studied violin and piano and voice, attending schools like Juilliard and the Chicago Musical College, as well as Johns Hopkins and Columbia and the University of Chicago. She holds a bachelors degree from Memphis State and a masters from Vanderbilt and was a teacher for many years, covering, as her page in the "Who's Who of Arkansas" put it, "every subject in the curriculum except typing and shorthand."

She also has an interest in medicine (she

gave $10,000 for a medical conference at Vanderbilt last year) and politics (she is proud of the fact that she "helped Senator John McClellan carry my township in the last election by making a lot of folks get out and vote, who wouldn't have, if I hadn't made them").

Anything she sets her mind to, say her friends, Miss Lily will get done—and others always seem to profit from her determination.

"I think she just really doesn't know how people appreciate what she's really done for us," says Helena real estate man Thad Kelly. (A former student of Miss Lily, he admits he and his classmates often used to talk her into singing or playing the violin for them, when they were not prepared for their lessons.)

The Van Cliburn recital, was just one example of what Miss Lily has done. Seldom does such a celebrity show up in Helena, although Hernando de Soto and Marquette and Joliet are said to have passed through a few years ago, and Arthur Fiedler and Harry James are among those who appeared at previous concerts in the high school gymnasium.

Such a commotion erupted over the pianist's arrival that Mrs. Cappi Lindsey, down at the Chamber of Commerce, was up to her ears in phone calls from folks wanting the tickets which had been exhausted in two days' time. And the Holiday Inn had spelled out "Welcome Van Cliburn" on the same marquee which read on the other side, "Prime Rib Every Friday."

All that was directly due to Miss Lily, because at one point the Van Cliburn recital had been called off by the Warfield Fund Committee, which supervises Helena's unusual free-concert program under stipulations of the will of S. D. Warfield. The pianist's $8,500 fee was a bit too steep for the committee, which draws its annual budget from the interest of the $500,000 estate of the late Mr. Warfield, a Phillips County landowner.

"When you have only $13,000 to $15,000 a year for your whole budget, you can't spend that much on one performance," says Mrs. Winston Mosby, a member of the committee. "But then I happened to see Miss Lily right after that and told her, 'Oh, Miss Lily, we could have gotten Van Cliburn, but he wanted $8,500 and that was just too much. So we had to turn him down.' "

"A few days later, Miss Lily called me and said, 'Well, honey, you all go on and get Van Cliburn, and I will pay half of it.' So we did, and she did. And that's how we were able to bring Van Cliburn to Helena."

Miss Lily has always been like that, even in the days when she did not have the money she has today, Mrs. Hal Nicholls, another member of the Warfield Fund Committee, says.

"I've heard the story of the time, back when Miss Lily was teaching, that they needed $100 to renovate the teachers' lounge," says Mrs. Nicholls. "Well, Miss Lily went out and bought some damaged prints of classic paintings and spent the whole winter repairing them herself with a paint brush. Then she sold them all for $2 each and got the $100."

Miss Lily did, indeed, have proud if humble beginnings. Born on a farm not far from where she now lives, she was the daughter of William Oliver Peter and a descendant of a line of ministers and professors of the Moravian faith.

When her father was injured by a runaway team and subsequently died, her mother had to take over.

"My father had made some unfortunate business investments," says Miss Lily, "so that we were left very much in debt. My mother sold everything salable, except the land."

She and her brother Jesse were the only two of the children that farming "took on," Miss Lily says. She retired from teaching in 1948, to take over the plantation at Marvell, when Jesse Peter moved to the plantation he had acquired at Ratio, to the south. When Jesse died in 1956, she took over the entire operation.

"I may never have driven a tractor, but as recently as 1967, I was working some nights from 6 p.m. to 6 a.m., weighing cotton," she says.

She feels she has been a good boss, paying well and never finding fault with her employes. In return, they loyally stay on with her.

"James King, my farm manager, and Reuben Wilson, who looks after my small herd of black Angus cattle, have both been with our family 42 years," she says.

Miss Lily still works nights a great deal, but it is the composition of poetry, not the weighing of cotton, which occupies her nocturnal hours.

The front den of her home contains a grand piano which she never has time to play, plus books with impressive titles, such as "Iberia," "Beethoven," "This England" and "Owls." (She is an ardent collector of miniature owls, ceramic, metallic and wooden, and of owl pictures, paintings and prints.)

A back room houses her collection of awards and honors, including a letter from President Nixon upon the occasion of her donation of 40 acres of virgin timber land to the state of Arkansas for a bird refuge.

"I am normally a modest person," she says of the array of certificates and proclamations. "But I thought if people were nice enough to give these different things to me, I really should display them. I don't have them all up—just the ones from people who live closest to me. They're the ones who are most likely to drop by and see them."

The awards include such honorary posts as membership on the national council of the Metropolitan Opera in New York, and more active ones, such as membership on the board of the Southern Cotton Ginners Association, which, "as a woman, is my favorite."

She has had two books of poetry published. ("The Green Linen of Summer" and "The Great Riding"), a third is currently in the works, and, as Arkansas poet laureate, she is frequently called upon to write poems for specific occasions.

Today, at her unpretentious home, Miss Lily clings to the memories of those occasions and the many others she has helped create or augment, just as she cherishes the withered bouquets she cannot bear to throw away, flowers she has been given at those "special times."

"I could have taken the $60,000 I spent on the concerts in Little Rock and bought myself a big home, I suppose," she says. "But a house will last only so long and will eventually fall down. I had rather have my money invested in music and art or things which will endure. So I will continue giving as much as the Internal Revenue Service will allow me to, every year.

"There are so many unhappy people in the world today. I want to see people happy. That way, I enjoy life. Every day to me is just as though I was 16 years old."

It is this attitude which prompted Gov. Dale Bumpers of Arkansas to call Miss Lily "a tremendous asset to this state."

"I have never known anybody as completely selfless as she is in promoting not just art appreciation, but also art participation. I met her after I became governor, and I was so entranced with her many talents and really more gratified with her deep dedication to the arts that I named her poet laureate of Arkansas."

At the country club reception which followed Van Cliburn's recital, the pianist talked with Miss Lily far past midnight. Gary Witt, a former Helena resident who now lives in Memphis, was growing concerned, because Mr. Cliburn had to be driven back to Memphis to catch a plane.

Finally, Mr. Witt was able to get Mr. Cliburn and Miss Lily separated, after the musician paused to kiss her hand one last time. He had never before met her, but they had talked nearly an hour.

"She is a remarkable person," Van Cliburn said, in what seemed a state of awe. "It was so terribly interesting, talking to her. She's quite a historian, you see, in addition to her other talents.

"It was absolutely thrilling. She brought up some historical data on the Latrobe family—Mr. Latrobe, who built the White House—and she was telling me about the earthquakes in this territory in, I belive she said 1814 and 1815. They were quite devastating. And she was telling me about. . . ."

Once more, Miss Lily had been in her element.

THE CONGERS TRAGEDY WAS A NATIONAL TRAGEDY

Mr. JAVITS. Mr. President, on March 24, 1972, a loaded schoolbus was struck by a train at Congers, N.Y., resulting in the tragic death of five boys and injury to more than a score of other youngsters. Those involved, the children and their families, are my constituents. But, in a larger sense they could have been the children or grandchildren or constituents of any Member of this body, for the Congers tragedy was but one of more than 47,000 schoolbus accidents in the Nation. With some 40 percent of all American schoolchildren traveling to and from school each day by bus, but by the grace of God the harrowing experience of the community of Congers could have occurred elsewhere in the Nation. The children of Congers were our children.

I am heartened that the Commerce Committee is studying the matter of schoolbus safety and will be holding hearings on my bill, S. 611, and the bill introduced by Senator NELSON, S. 847, of which I am a cosponsor, legislation which will hopefully result in increased security for the 20 million students riding the Nation's schoolbuses. As the parent of a daughter who was once injuired in a schoolbus mishap, I look forward to the time when there will be no repetition of the tragedy which occurred at Congers and similar tragedies which have occurred elsewhere in our country. The fact that schoolbuses have a better safety record than other forms of transportation should not deter a concentration of effort to assure as perfect a safety record as can be attained. For the children who travel in schoolbuses, unlike passengers in other vehicles, do so not out of individual choice nor are they able to refuse to ride because the vehicle is substandard or the driver ill prepared. Their well-being is our responsibility; they are all our children.

The current issue of Reader's Digest carries a chilling recounting of the Congers tragedy, "Bus Crash," by Floyd Miller. The fact that this article appeared in a foremost national publication underlines the fact that what occurred in Congers was not merely a local incident but a national tragedy. I ask unanimous consent that the article be printed in the RECORD as part of my remarks.

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

BUS CRASH

(By Floyd Miller)

No. 9 Third Street in the village of Congers, N.Y., is a neat frame house where Edward and Joan Fitzgerald live with their seven children and his mother. On the morning of March 24, 1972, the household routine was proceeding as usual. At 7:50 a.m., Joan was standing by the kitchen table brushing her six-year-old daughter's hair. The three older children had prepared their own breakfasts and gone off. Now Joan was downstairs to feed the younger ones and dispatch them to school.

There was one thing out of the ordinary in the kitchen this morning: the sink's drainboard was piled high with moulages that Joan had washed the night before and would pack away today. Moulages are artificial wounds—gunshot and stab wounds, burns, abrasions, lacerations—made of plastic in vivid, realistic colors. It looked as though some macabre autopsy had been performed in the Fitzgerald sink.

Joan was a first-aid instructor and a longtime member of the Congers Volunteer Ambulance Corps. Just the night before, she had conducted a disaster rehearsal for the corps. She had pasted the moulages on volunteer "victims" scattered about the scene of the "disaster," then sent corps members in to rescue, diagnose and treat them.

Now as she brushed her daughter's hair, Joan thought back on the rehearsal. There had been a few errors, of course. One concerned 16-year-old Stephen Ward, who had played the victim of a gunshot. The rescue squad found, diagnosed and correctly treated the bullet-entry wound on his chest—but failed to discover and treat the exit wound in his back! "I'm sorry, Stevie," Joan had joked, "but you're dead."

Perhaps it was preoccupation with the memory that prevented her from performing one small bit of her morning routine. At 7:55 there came the flat, penetrating blast of the horn on a diesel locomotive. This sound always made her look out the window, toward the point some 200 feet away where Gilchrest Road crosses the Penn Central railroad tracks. For whatever reason, on this morning she did not look.

Seconds later there came another sound, a thud, and she thought that perhaps her ten-year-old son, John, had fallen out of bed. Dropping the hairbrush, she started for the stairs, then saw John standing in the kitchen doorway. His face was drained of color, a white mask with two enormous eyes burned into it. He said, "A train just hit the school bus." She turned and looked out the window. What she saw made her stagger, and her lungs emptied of air as if a fist had been driven into her stomach. She could only utter a hoarse whisper, "Oh, my God!"

HARVESTING THE CHILDREN

JOSEPH LARKIN was a 35-year-old New York City fireman, living in Rockland County and commuting to work. He had discovered the hard realities of suburban living; it was all but impossible to stretch his fireman's salary far enough to adequately feed, clothe and house a family of four. He needed a second job. In the fall of 1969, he had become a part-time school-bus driver, taking children to the village of Nyack, where the area high school was located.

On that morning, which had started so routinely in the Fitzgerald household, Larkin drove from his home to the school-bus parking lot in Congers. He entered the big yellow bus, No. 596, checked the brakes and the flashing red warning lights that festooned the vehicle, then headed for the Valley Cottage neighborhood he served.

Minutes later, he was weaving his way through streets lined with comfortable homes, picking up clusters of students at designated stops. At the corner of Gateway and Russet stood Barbara Trunz. Barbara had recently tried out for the lead in a school play, and the result would be announced this afternoon. With butterflies in her stomach, she had managed only a glass of orange juice for breakfast. Her mother, a former television actress, understood completely. At the door, as Barbara left, she called softly, "Chin up."

Barbara entered the bus and walked toward the rear, taking an aisle seat three rows from the back.

One of the next to board was Stephen Ward, his parents' only child. Always a quiet boy, this year he had come to the decision that he wanted to attend the U.S. Military Academy at West Point, some 25 miles up the Hudson River from his home. He composed letters to Vice President Agnew and to the two New York Senators, asking that they consider him for an appointment. And he set doggedly to work improving his grades. He had been a borderline student in math but his marks climbed until this last semester he had made a 92 average. Boarding the bus, he took a window seat on the right side in the sixth row.

The Macaylo brothers, 14-year-old Clifford and 18-year-old Richard, got on soon afterward. Clifford found a seat near the front while his older brother continued down the aisle to a vacant place next to Ward. Stephen had told Richard about his dream of attending West Point. Some of his friends might laugh at such an ambition, but not Richard, who was himself an outstanding student. Now as the Macaylo boy joined him, Stephen began to relate his misadventure of the night before when he had been "shot dead" during the ambulance corp's disaster rehearsal.

Coming aboard at the next stop were the Mauterer brothers—16-year-old David and 14-year-old Robert. David sat near the front, but his young brother walked back until he found a seat in the middle of the bus, just in front of Stephen Ward and Richard Macaylo, and across from one of his heroes, James McGuinness. "Muggsy" McGuinness played varsity football, lacrosse and hockey. A stocky boy, he was not a natural athlete, but few were so dedicated. "Muggsy looks like a walking fireplug," commented one of his coaches. "But he gives out 100 percent."

When Teresa McNeely climbed aboard, she walked toward the rear of the bus, where she stood next to Barbara Trunz. She wanted to talk to her friend—but also she wanted to display a new pair of slacks she was wearing.

Teresa's mother and stepfather, Alice and Tom Martin, were old-fashioned in their ideas about dress and, in spite of Teresa's protests, did not approve of jeans or slacks for school wear except in bad weather. Alice Martin was a nurse, a member of the IV (intravenous) staff at nearby Nyack Hospital, and this morning as she was getting ready to go to work, she caught a glimpse of Teresa passing her hall door, clad in slacks. She opened her mouth to call her daughter back, but a glance at the clock told her that to do so would make the girl miss her bus. She weighed the priorities of time and duty—and did nothing, resolving only to speak to Teresa about it later.

Driver Larkin worked his way through Valley Cottage, harvesting children, until the bus was full to overflowing. In all it contained 48 passengers: 31 boys and 17 girls, seven of them standees.

They started down Gilchrest Road on the final leg to Nyack High School. Normally the bus did not come this way, but construction work on a new sewer system had forced a detour in recent days. The road here descended gently to the tracks of the Penn Central railroad. There was no gate, no watchman, no electric warning lights or bell, only a round sign with the traditional X and RR, and above it an octagonal sign bearing the word STOP. South of the crossing a stand of trees partially blocked the view, but on this March day the trees were leafless. Through the bare branches, several of the students saw a train coming.

A BANSHEE HOWL

PENN CENTRAL train No. 2653 had been made up in the Weehawken, N.J., marshaling yards the night before. There were three giant diesel locomotives and 73 freight cars. The train crew arrived at 5 a.m., performed routine checks of the brakes, and then proceeded to North Bergen, where they picked up ten additional freight cars.

The run northward was uneventful until they arrived at control point 22 in West Nyack. Here they discovered a signal malfunction: the light kept turning from yellow to green to yellow. The train stopped and engineer Charles Carpenter radiotelephoned New York to report the condition. The dispatcher assured him the track ahead was clear and told him to proceed. On an upgrade, the three diesels strained and thundered to pick up the speed lost by the stop. At a point just south of Congers, the train, all 4000 tons of it, was moving at 25 m.p.h.

At 7:54 the lead engine came abreast of a whistling post, which meant that a road crossing lay 1500 feet ahead and procedure 14–L was in force. Under this regulation, the engineer sounds two long blasts, a short and another long on the horn. The warning was made.

Just beyond the whistling post the tracks curve to the left, and as the train rounded the bend the three men in the cab—engineer Carpenter, fireman George Gray and brakeman John Carey—had an unobstructed view of the Gilchrest Road crossing. Visibility was good. The track ahead was straight and clear.

Fireman Gray, seated on the left side of the cab, saw a distant flash of yellow—the bus. It was several hundred feet from the railroad crossing, plenty of space in which to halt. Still, Gray was worried. He always felt uneasy when school buses approached the tracks on which his train was riding.

All of the men in the cab of the train had now spotted the bus and all had their eyes fixed on it, expecting it to slow at any moment. Seconds passed and each man tensed his right-leg muscles, as if his own foot was riding that distant brake pedal. Opposite the approaching bus, on the other side of the crossing, a garbage truck, driven by William Muccio, had halted. Muccio, too, watched transfixed as the bus descended the hill. Then instinctively he brought his fist down on the horn. The howl was joined by a banshee cry from the train.

In the caboose, conductor Joseph Liberttucci kept a routine watch on the long line of swaying freight cars stretching ahead and, one by one, disappearing behind the stand of trees to the left. Suddenly the radio speaker came alive, and he heard engineer Carpenter's frantic voice from the cab far ahead cry out the warning of disaster: "Mayday! Mayday!"

At that moment the train was "dumped," as the engineer pulled the emergency brake that locked the wheels. There was a scream of metal, then a clatter as the strungout train began to contract. But the momentum of 4000 tons could not be stopped at once, and the great diesel engine thundered into the crossing.

Fireman Gray, hypnotized with horror, watched the hurtling bus enter the crossing at the same moment. Forever etched on his mind's eye is a row of faces framed in the bus windows—some with mouths open in

silent screams, others with hands extended in pitiful hope of fending off the monster now upon them.

"DON'T PANIC! DON'T PANIC!"

The engine caught the bus just behind its center point with the force and the sound of a bomb exploding. Like a giant blade, the locomotive jaggedly sheared off the rear half of the bus and flipped ft onto its top near the crossing, spilling passengers and seats in the roadway. The rest of the bus—from row 6 forward—caved in under the impact and wrapped itself, as though made of flimsy foil, around the engine's blunt nose. Then, ripping and crumpling, the tangled mass of steel screeched 1000 feet farther down the track, the diesel's front still firmly encased in the bus.

Along the entire 1000 feet, broken bodies covered the right-of-way. A strange snow storm filled the air—thousands of bits of paper, torn from texts and notebooks, homework that would never receive a grade—and settled slowly over the bodies. At last the train halted and there was silence.

In the kitchen window overlooking this scene were the whitened faces of Joan Fitzgerald, ten-year-old John and six-year-old Eileen. Joan had her arms around her children, but there was no protecting them from this sight.

"The bus didn't stop," John kept repeating. "The bus didn't stop."

The disaster rehearsal Joan had conducted the night before seemed to have little relationship to the reality now before her. The moulages on her drainboard had produced no such feelings of helplessness and outrage as now flooded through her. How could such a thing happen?

She grabbed a phone and dialed the police. "A train has hit a school bus on Gilchrest Road!" she yelled into the receiver. "We'll need ambulances, a lot of them. And a fire company."

Then she threw on a topcoat, grabbed a bag of first-aid equipment and dashed out of the house. She felt as if lead weights were attached to her feet. She was running as fast as she could, yet her progress seemed to be measured in inches.

At last she arrived at the crossing, where the rear half of the bus lay. There had been 21 children in this half and, of that number, two were on their feet. A boy and a girl walked in tight little circles, around and around, their faces totally void of expression.

"Sit down," Joan said to them. "Sit on the ground and don't move until I can get to you!" The youngsters obeyed.

Her problem was one of priorities. Which child demanded immediate attention and which could be safely postponed? She came upon a boy who had been thrown from the bus with such velocity that his head was half-buried in the ground. She knelt and clawed the dirt away from his face so that he might breathe more easily. She felt for the pulse in his neck, and found it strong. He could wait.

Sprawled nearby was the still form of a boy whose leg had been severed below the knee. She scrambled to him. When she reached his side she discovered that, though the leg was grotesquely twisted back, with jagged ends of broken bone exposed, the foot and ankle were still attached by some calf muscles and tendons. She applied a tourniquet to stop his blood from draining out.

As she moved among the children, Joan had the impression she was watching a poorly-put-together movie in which disjointed scenes flashed briefly on the screen. Suddenly a policeman appeared between two of the freight cars. When he saw the carnage, his face drained of color. Hoarsely he shouted to no one in particular, "Don't panic! Don't panic!"

William Muccio, whose garbage truck had stopped for the train, appeared beside Joan, tears streaming down his face. "What can I do?" he begged. "What can I do?"

Next she saw two men wearing business suits running toward her. "Cover some of the children with your coats!" she shouted at them. Instantly, they obeyed. About this time her husband arrived. The three men worked along with Joan.

Sirens could be heard now as several ambulances came up Gilchrest Road from the east and halted by the train. Maggie Kuehne, a volunteer with the Nyack Community Ambulance Corps, climbed between the freight cars as the policeman had done and jumped from the railroad coupling to the ground. With her arms full of first-aid equipment, she landed awkwardly and grimaced with pain. She straightened at once and ran to the nearest child. As she would discover later, she had dislocated a vertebra in her neck. Though in great pain, she continued working over the children.

Between the flashing scenes, Joan Fitzgerald moved from child to child, letting her hands bandage and splint automatically, as if by reflex. Two of the children were known to her but if she saw them, she didn't recognize them—her senses retreated from the horror of the scene. Nearby lay the crumpled body of Stephen Ward, the boy on whom she had pasted the bullet-wound moulage the night before, the boy whom she had jokingly pronounced dead. He was still alive, but his pulse was thin and weak.

"THIS HELLISH DAY"

As Dr. Saul Freedman, chief of the Nyack Hospital Medical Emergency Service, pulled into his parking space, a nurse came running out with news of the accident. "Get Judy and Lillian and come with me," Freedman directed.

With three nurses and first-aid equipment in his car, he headed for Gilchrest Road, arriving at 8:15. Dr. Freedman had been a captain in the Navy's medical corps during World War II, but the thousands of battle casualties he had seen did not affect him quite the way these children did.

"I've seen bravery in battle," he said later, "but none more than here. There was no crying or wailing. Children with smashed pelvises, all but severed limbs, lacerated faces, torn abdomens, concussions, broken backs—they all waited with stoic patience until we could get to them."

One girl, Mary Jane Li Puma, had been sitting in the sixth row of the bus, opposite the point of impact. "She had a partial amputation of one leg below the knee," Dr. Freedman recalls, "and she was covered with blood from lacerations. Yet when I knelt beside her she managed to say, 'I'm all right. Please take care of my friend.' "

Also on the scene was Dr. Frederick Zugibe, the Rockland County medical examiner. In his job he has seen countless accidents, yet what he found here shook him. He remarked, "I have seven children of my own, and it was as if *they* were sprawled there beside the tracks. It was difficult not to weep."

After the Congers ambulance arrived and she had done as much as she could for the children on that side of the tracks, Joan Fitzgerald walked to the front of the train, where the forward half of the bus was still impaled on the engine. In the driver's seat sat Joseph Larkin, intermittently incoherent and as yet unattended. From time to time he would ask, "Was anybody hurt?" No one answered him.

It was determined that Larkin had a spinal injury and a "spine board" was ordered brought from one of the ambulances. His limp body was handed down from the wreckage, strapped to the spine board and taken to a waiting ambulance.

Now came a new horror. Between the flattened bus and the diesel locomotive, the rescuers discovered the body of a boy. The mystery of how, in that second of impact, he are internal injuries," he said. "We'll send dropped *between* bus and train would never be solved. An ambulance corpsman climbed up on the wreckage and worked his way close enough to touch the boy.

"He's alive. He's alive" he shouted back.

What could be done? It was beyond the strength of the men to separate the wedded metals of bus and locomotive, and an acetylene torch would ignite spilled gasoline. Miraculously, a tractor backhoe now appeared. A steel cable was swiftly linked to the body of the bus, and the tractor growled and backed off, tightening the cable. The twisted steel of the bus groaned, trembled and, with a metallic cry, came loose. Rescuers stepped into the widening gap—and found not one boy but two! Gently they were lifted down, placed in ambulances and rushed to the hospital. Both survived.

By 9:15, the last of the living had been removed. There were, however, two bodies beneath the train. That was how death had come for James McGuinness, the star athlete, and Richard Macaylo, the star student. They were removed by Dr. Zugibe and his assistant, and taken away for autopsies. A third boy, Robert Mauterer, was dead on arrival at the hospital. Three fatalities thus far.

Their jobs done for the moment, Dr. Zugibe and Joan Fitzgerald accepted mugs of coffee brought by neighbors. The doctor studied Joan for a moment, then said, "How do you feel about the bus driver? I noticed that you backed off when he was taken away."

"I couldn't bring myself to help him," Joan confessed. "I'm ashamed of myself, but there it is."

"Try to look at it this way," Zugibe advised. "He's a man who made a terrible mistake, but he will punish himself more than you ever can. He'll live with this hellish day for the rest of his life. So will his wife and children." This dialogue, in essence, would be repeated many times by many people in the days ahead.

BOY A AND GIRL B

STUNNED by the calamity, Nyack and its neighboring towns of Congers and Valley Cottage reacted swiftly, drawing together, pooling resources to meet the common crisis.

At 8:02 a.m., at the Nyack Hospital, the Disaster Plan was put into effect, the first time it had been used for an accident of this magnitude. All department heads were notified, from the director of pathology to the maintenance and food services. All off-duty nurses were summoned, with especial emphasis on emergency and intensive-care personnel.

A small community hospital such as Nyack's depends heavily on non-paid volunteers. The director of this department was soon on the telephone summoning her Pink Ladies (adults) and Candy Stripers (teenagers) to augment the staff of 35 that would normally report for duty.

There was one enormous piece of good fortune: a new six-story wing had just been completed. It added 140 new beds and brought the total of operating rooms to nine. One of these was now in use, but all other surgery was canceled.

Chief surgeon Dr. Herbert Sperling heard the first news bulletin of the crash on his car radio. He drove immediately to the hospital and gave instructions to summon all physicians in all specialties: cardiology, gastroenterology, hematology, neurosurgery, orthopedics, anesthesiology and plastic surgery. He canceled all regularly scheduled surgery. Meanwhile, the director of radiology ordered the cancellation of all scheduled work in the eight X-ray rooms.

At 8:30, the first of the injured students arrived at the hospital. As each was admitted, he received a tetanus shot, and an intravenous nurse drew a blood sample in case

a transfusion would be needed. Then Dr. Sperling made preliminary diagnoses before sending the child to radiology for X rays or, in extreme cases, direct to surgery.

When the first child arrived, however, a problem of identification developed. Few carried wallets or purses, and those who did had lost them in the maelstrom of the collision. Moreover, most were unconscious or so disoriented that they could not answer questions. Who were they?

They were identified, for the time being, by marking letters of the alphabet on their foreheads, and all the medical records that accompanied them through the hospital carried the anonymous A, B, C label, until parents or schoolmates or someone could give them back their true names.

By 8:45 there was a continuous caravan of surgical carts bringing young patients down from emergency to the radiological department, where eight technicians and four radiologists, many of them not scheduled for work that day, were on duty. A General Electric technician who had just completed the installation of one of the machines stayed on to assist in the darkroom.

As each X-ray film was exposed, it was rushed off for immediate development. Seated in the viewing room all that morning and reading the films was Dr. Frank Dain, who noted each diagnosis—"loss of teeth . . . fractured nasal bones . . . partial amputation left leg below knee . . . compression of 7–8–9th thoracic vertebrae . . . fractured skull. . . ."

Dain attached each written diagnosis to the film and stuck both on the corridor wall with surgical tape. From there they were taken by an operating-room nurse into surgery, where they were matched with the letters drawn on the foreheads of the still figures stretched out on the operating tables.

At the switchboard, Marge Krupinski watched the incoming lines light up as doctors and nurses throughout the area called to offer their services. Then came ordinary citizens volunteering help. "I'm a grandmother," said one, "and an experienced babysitter. Perhaps I could help some family that has small children at home." A housewife called, offering to make beds or to "push stretchers."

The New York press called again and again with increasing impatience. When told that the names of the dead and injured were not yet known, they did not believe it.

Most difficult were the calls from frantic parents. One father called long-distance from Maryland wanting to know if his son had been on the bus. Marge Krupinski put his call on hold for 20 minutes while she ran through the offices and corridors searching for someone who might know the answer. At last she was able to report back to the father: his son had been on the bus and was injured. The father took the next plane home.

Telephone operator Fay Smith had a special relationship with the McGuinness family. One evening a year ago, Fay's older daughter had gone for an auto ride with her best friend, Carol McGuinness, and there had been an accident. Fay's daughter died. The two families, brought together by their mutual pain, had remained close ever since.

Now, Jim McGuinness's familiar voice came on the line asking Fay if there was any news about young Jimmy. "No news has come up yet, Jim. I'll call you back the minute I hear anything." Thirty minutes later Jimmy's mother called: "Fay, this is Peggy. I'm sorry to bother you again. . . ." Her voice trailed off.

By now the phone company had sent a chief operator to relieve the staff, a supervisor to handle any unforeseen problems, and a repair man to stand by in case there were mechanical difficulties. (The phone company was also installing eight direct-dial telephones for the free and unlimited use of parents.) Fay left the switchboard and sought out a doctor. "Put on a surgical gown and go through the operating rooms," he said. "Maybe you can identify him."

Wearing one of the wrinkled green garments, Fay began a tour of the hospital, peering down into face after face as she repeated, "Jimmy McGuinness. . . . Has anyone seen Jimmy McGuinness?" It became a prayer, but it brought no response. Jimmy McGuinness was not in the hospital. There was only one other place he could be—the morgue.

"IT WAS AWFUL, MAMA"

TOM MARTIN, Teresa McNeely's stepfather, owns a real-estate-appraisal firm and was working on a project for a Rockland County park. At 8:05, at his desk, he heard the alarm summoning volunteer firemen. He paused, pencil poised. He was a volunteer but was not required to answer all calls, and the park job was important. He decided not to respond, but even as he made the decision the pencil fell from his fingers and he found himself running.

At the fire station a lieutenant was directing volunteers who were loading all stretchers available onto the equipment truck. "What happened?" Tom asked.

"Train hit a school bus," came the reply. "Bodies all over the place. Gilchrest Road."

That was the route taken by Teresa's bus! The truck roared down the highway while Tom clung desperately to the handrail. It was the wildest ride he had ever experienced. Long before they reached the accident, they found the highway choked with traffic, so they turned off the road and jolted down the railroad right-of-way.

Tom saw a chaotic scene—14 emergency vehicles from three fire companies and six ambulance corps were already there, parked helterskelter on the tracks and the roads and in fields. Bodies of children were being pulled from the wreckage, treated on the grounds, or loaded into the ambulances. He saw a nurse at work in a blood-drenched uniform.

Within seconds he was propelled into the scene. He distributed stretchers, helped unload portable generators that could produce power for metal-cutting tools.

Teresa was in the back of his mind, but he could not abandon his job to search for her. Once, when he almost stumbled over the face-down of a girl, his heart rose into his throat. But it was not Teresa. He began to tell himself that Teresa had not been on this bus—and he repeated it, over and over, until it became a litany.

When Teresa's mother arrived at her desk at the hospital, she found a hastily scribbed note: "Alice, go to the emergency room." She hung up her coat and walked briskly to the rear of the building.

On the way another nurse told her about the bus crash. Alice felt a flicker of fear, but she banished it. Coming to work, she had followed the regular route taken by Teresa's bus, and had seen no accident. She did not know that the bus had taken a detour. She walked faster, in spite of herself. As she came down the corridor leading to the emergency room, she saw a long row of empty stretchers, ready for use. Not in the three years that she had worked here had she seen such extensive preparations.

Through the door from the emergency room came a stretcher containing a small, still figure, clad in slacks. Alice began to run.

"Teresa!" her mother called. "Oh, my God, Teresa!"

Three members of the ambulance crew were clustered about the stretcher, but Alice swept them aside and leaned over her child. Gravel was embedded in her lacerated face and scalp. Her eyes opened briefly, and a whisper came from blood-caked lips: "Mama."

"It's all right, baby. It's all right."

Dr. Sperling examined Teresa, then put his arm around Alice's shoulders. "I doubt there are internal injuries," he said. "We'll send her to X ray at once. Would you like to go along?"

Alice shepherded her daughter through the X-ray rooms, then upstairs where she supervised her transfer to a bed.

"It was awful, Mama, awful. The train came right down on us." Teresa began to tremble.

"Hush, darling. Try to go to sleep."

The sedatives were beginning to work and the young girl said drowsily, "I'm all right, Mama. Go help the others."

Alice Martin kissed her daughter tenderly on the forehead and left the room. She was more fortunate than the other parents. She had work to do.

AN INTIMACY OF FEAR

By 8:45 the hospital's main lobby was teeming with people. The emergency plan had not foreseen an invasion of close to 100 distraught parents, grandparents, brothers and sisters. Although kept off the surgical and recovery floors, they could not be told to go home; they had a right to be as near their children as possible.

To clear the congestion, hospital administrator Russell Drumm moved them to a large meeting room on the ground floor near the staff cafeteria, and arranged to have them supplied with coffee and sandwiches round-the-clock. Ordinarily used for conferences, the room was furnished with chair and tables, but it was secluded from the bustle of the lobby and main halls. Here the parents huddled together in the new intimacy of fear.

Nyack priests, ministers and rabbis arrived to offer support and comfort. Father Donald Whelan of St. Ann's Roman Catholic Church had been at breakfast in the rectory when a call came from the hospital switchboard. Living but five blocks away, he was in the emergency room when the first of the injured arrived. To those he knew were Catholic, he gave last rites. To the others, he gave conditional last rites. Then, after the last child had passed through the emergency room, he went to the meeting room to join the parents.

For the rest of that morning he was the parents' emissary to the upper floors. As the children were slowly being identified, it was usually Father Whelan who brought the news. When a child left surgery, Father Whelan appeared at the doctor's elbow to beg information for the parents. He is a soft-spoken, enduring sort of man. When the news he brought was bad, he didn't unload the full burden of it on the parents, but shared the weight with them.

Each time he entered the meeting room, all talk stopped and the parents looked at him with pleading eyes. Many thought they would welcome any news—surely nothing could be worse than the racking suspense of not knowing. But each time he returned they shrank within themselves, protecting their ignorance and their hope.

On one of his trips the priest walked slowly through the crowd to stop, finally, in front of Jean Moran. She blanched, and reached for a friend's arm to steady herself.

"I just saw Claudia," the priest said softly. "She's alive."

"Thank God," Jean Moran whispered, and let out a shuddering breath. But her relief lasted only a moment. "How badly is she hurt?"

"Some internal injuries. They're not sure of the extent, but nothing that can't be repaired. You can see her for a few minutes now before she goes into surgery."

The mother started for the door, but after a few steps she paused and looked back. The priest gave her a reassuring smile. "I'll come with you," he said, and took her arm.

There was bravery and consideration in that lonely room. No parent asked special attention over the others, and all shared the

news, good and bad. As one later described it: "When a neighbor learned his child had only minor injuries, we all rejoiced. And when one was told his child was on the critical list, we all felt the knife in our hearts. It was as if we all had 45 children of our own."

As news of the accident spread, parents from all over the district began frantically calling the high school to make certain their children were safe in class. Teachers attempted to hold regular classes, but the constant interruptions were not conducive to study. And in each room one or more empty seats grimly attested to the accident.

One boy was summoned to the front office where his father waited; he insisted on meeting his son face to face before he would believe him safe. Upon seeing the boy uninjured, he broke into tears.

The youth returned to class, shaken. "I never saw my dad cry before," he said.

OPERATING ROOM 5

Within 38 minutes of the accident all the injured had been removed from the scene. One hour after the first arrival at the hospital, 45 children and one adult had been admitted, examined, and were in beds, radiology or operating rooms. By noon some 300 X-ray pictures had been taken, at least 25 transfusions of blood plasma and fibrinogen (a blood protein) given, and 17 major surgical procedures performed.

Pediatrician assisted anesthesiologist, ophthalmologist sutured for orthopedist, neurosurgeon sutured for urologist, plastic surgeon sponged for dental surgeon. "The doctors were simply wonderful," a parent later remarked. "They not only took care of our children but of us, too. I don't know exactly what the Hippocratic oath says, but that day we saw it in action."

In short, they did what had to be done. And sometimes they performed seeming miracles.

In operating room 5 lay a slender, dark-haired youngster of 14 who wore on his forehead the marking D. Unconscious from a blow on his head, he also had a fracture of the right collarbone, a broken left leg, and in many parts of his body there was hemorrhaging. But it was his right leg that now concerned a team of surgeons headed by Dr. Eric Rothschild. It was about to be amputated.

His real name was David Fleetham. He had been sitting by the window in row 7, just behind the point where the bus was cleft in two. In the right leg, both major bones had been severed at mid-shank between knee and ankle, and their jagged ends protruded through the flesh. The upper and lower half of the leg were still attached, but only by a few tendons and a lump of calf muscle. The foot was dead cold, having had no circulation in it for almost an hour.

Surgeons do not lightly remove a leg, and at some point during the preparations the doctors gathered around the operating table changed their minds. There was still a chance the leg might be saved, they decided. So they found themselves undertaking the long and difficult task of setting the jagged bone ends, then suturing together muscles, tendons, nerves and arteries. This finally done, a cast was put on the leg and the patient wheeled to the intensive-care unit.

In days hence, infection would set in. But it would be defeated and David's leg would be saved.

Sometimes no miracle on earth could suffice. At 9:10 a.m. 17-year-old Joan Ferrara lay on a stretcher in the corridor. She was in traumatic shock: pale and shivering, her pulse rapid and thready, her blood pressure 80/20. She had severe lacerations of the face, her cheek was laid open to reveal a bloodied jaw and missing teeth, her eyes had been jolted out of alignment, causing double vision. But as with Boy D, it was her right leg that gave the doctors greatest concern. The foot and lower leg were crushed, the muscles macerated. This grotesquerie was attached to the rest of the leg by a half-inch of flesh.

When wheeled into the operating room she was surrounded by specialists. Headed by Nyack chief orthopedic surgeon Dr. Edward Leahey, the team included a neurosurgeon, dental surgeon, plastic surgeon, urologist and ophtalmologist. They went to work on her broken body, and in a series of operations (extending over a number of weeks) they did some truly miraculous things. Her cheek and jaw were repaired, from inside her mouth so no scars would show. But there was no saving her right foot; truly, it was no longer a foot. The bit of connecting flesh was snipped.

THE HEALING PROCESS

Nyack and Valley Cottage awoke on Saturday morning, the 25th, with an emotional hangover, feeling drugged. Parents, relatives and friends, hospital staff and volunteers—all had been carried through the first day by a natural response to the disaster, and by a sense of unreality in the face of its enormity. On this bleak dawn the tragedy became real. Richard Macaylo, James McGuinness and Robert Mauterer were dead; Joan Ferrara had lost a leg, and later Mary Jane Li Puma would lose one too. Eight remained on the critical list.

On Sunday there was an interfaith memorial service in Valley Cottage's All Saints Episcopal Church. Some 500 mourners filled the church and spilled onto the lawn outside. Many were strangers. One woman from New Jersey explained, "When I heard the news I thanked God that my children were not involved. But then I found that I couldn't turn aside. These boys in some way were a part of me. I had to come here."

The following day, Terence Cardinal Cooke came from New York to conduct a requiem mass for the three dead boys at St. Paul's Roman Catholic Church in Congers. The pallbearers were teen-age friends and classmates.

That same Monday morning, 14-year-old Tom Grosse died at the hospital. He had been standing in the aisle of the bus at the point of impact. He never regained consciousness. A service for him was held Wednesday evening at the Germonds Presbyterian Church. This, too, was attended by many parents of the injured and dead, all members of a new family created and held together by the bonds of loss and sorrow.

Nor was this the end of the pain. On April 12, the critical list was again reduced, when Stephen Ward died.

After six days in the hospital, Joseph Larkin, the bus driver, was to be discharged. His safety had been a constant concern. Twice the security men had moved him to keep the location of his room a secret. Perhaps the precautions were excessive, but a number of threatening letters addressed to "Killer Larkin" had arrived at the hospital.

Even the floor nurses had initially felt hostility toward Larkin, but their attitude soon changed. One of the nurses explained, "He never rang for help of any kind. He had a fractured collarbone with some displacement, and he must have been in pain, but one would never have known it. Whenever a nurse entered his room she would find him staring out the window, his face a mask. He answered any question put to him, but otherwise was mute."

On March 30, Larkin was instructed to dress and remain in his room until someone came for him. He obeyed, sitting there staring out at the landscape he had studied so intently for six days. Finally the door opened and a nurse came in, guiding a wheelchair. Without a word he sat in it and was pushed into the thronged hall.

The safest, least conspicuous way to remove him was to act as if he were an ordinary patient being discharged in a routine manner. Guards had been placed at strategic points along his route through the halls, but they were careful to pretend no interest in the man wheeled past them.

As Larkin entered the lobby, several people turned to study him. Over their faces played the light of recognition, swiftly dimmed by uncertainty. His picture had appeared in a local paper but the photograph, taken at a happier time, bore but fleeting resemblance to the haggard man in the wheelchair. Larkin had aged markedly during his stay in the hospital. He was 35 when he entered; he looked 45 when he left. At last he was through the front door and into a waiting car.

On Friday, March 31, a giant two-motored Marine helicopter flew north from the U.S. Marine base in New River, N.C., hovered briefly over the athletic field of the Nyack High School, then with a fierce beating of the air settled to earth. Out stepped Lt. Vladimir Oksevski, the pilot Capt. William Hollis, and 14 enlisted men who had flown here to donate blood to the accident victims.

Lieutenant Oksevski, a refugee from Yugoslavia, had once lived in Congers. "When I heard about the crash," he said, "I knew I had to do something to help those people from my hometown."

Then the Marines marched across the street to the hospital, where they gave their blood and visited the injured.

The desire to help, to be a part of the healing process, ran through all segments of the community. Children from the Monsey Jewish Center began canvassing door to door to collect money for the victims and their families. Nyack and Congers high-school students and a Catholic Youth Organization group did the same. Merchants and local government offices set up "donation jars" on their premises. Athletic contests were held, with proceeds going to the families. Many sent contributions direct to the hospital—$3,000 arrived the first weekend.

As news of the growing fund was spread by press and television, checks began to come in from all over the nation. One envelope contained a brief but touching note, along with some crumpled bills that added up to $50. It was from a prisoner in a Southern jail.

Donations soon reached $70,000 and the fund became an official charity, registering with New York State. An "Instant Help Committee" was appointed and authorized to disperse money to the parents upon the presentation of any accident-related bills, including the hiring of baby-sitters, housekeepers and tutors. Whatever problems these families faced, worry about immediate medical bills would not be among them.

REASONS WHY

As the first shock waves that swept over the country began to subside, there arose some angry questions. How could such a thing happen? What had gone wrong? The community had always believed that the big yellow school buses represented the safest possible transportation for its children. Yet the unthinkable had happened. Why?

Out of the various hearings and inquests emerged some appalling facts and figures. For one thing, the crossing at Gilchrest Road had no gates, no warning lights, no bell, only the "RR" and "stop" signs. A year before, a petition had been circulated in the neighborhood asking the railroad to install at least a flashing light and bell that would be activated by an approaching train. But nothing happened. The Penn Central declared that warning lights or gates were unnecessary on a "single railroad track where trains can approach from only one direction at a time."

The grim truth was that, as of last summer, there were 2400 crossings in New York State without gates or electrical warning sig-

nals of any kind. The Penn Central and the state are currently installing signals at the rate of 30 a year, which means the job will be completed by 2052.

In 1971 in New York State, there were 906 school-bus accidents, resulting in eight deaths and 402 injuries. Nationwide, there were 47,000 school-bus accidents with 170 deaths and 5600 injuries. Unless drastic steps are taken, this toll can only mount. In 1971, 290,000 buses carried 20 million students a day. Each year sees another 500,000 students loaded into buses.

The big yellow buses are simply not as safe as they may appear. While passenger-car design has been frequently changed over the past few years in an effort to provide more safety for the occupants, comparable concern has not been shown for schoolchildren. Equipment failure and poor design are contributing factors in many school-bus injuries.

In January 1972, the New Jersey Department of Education sponsored a symposium on Safety in School Buses, to which many experts came. It reported: "Tests revealed severe safety deficiencies in present passenger seating. School-bus seats, improperly anchored, tend to rip out of the floor during an accident. Seat backs are of insufficient height, causing whiplash injuries during a collision from the rear, and severe head and torso damage occurs when passengers are flung ahead in a frontend collision. Padding of seat backs, bars and other exposed objects—long required in automobiles—is ignored in school buses." Nor are the buses equipped with seat belts.

Part of the carnage at Gilchrest Road resulted from the bodies of students slamming against seat backs, bars and stanchions. Many of the seats ripped loose from the floor to become deadly flying projectiles.

Emergency exits are all but useless in many accidents. Consider the bus that rolls over on its left side. The front door and right windows are high in the air, out of reach. The rear emergency exit has a complicated friction lock, is heavy and must be pushed up against the force of gravity. It is simply beyond the capacity of children to operate it. A solution would be to place an emergency escape hatch in the roof of the bus. This has not been done because there are no laws requiring it.

The National Transportation Safety Board has issued a report critical of the structural defects in most school buses. For example, experts report that a school bus is held together by fewer rivets than a commercial bus of comparable size. In crashes the rivets give way, exposing sharp sheet-metal edges that slash children. Such shortcuts in manufacturing are explained by the fact that auto makers must contend with budget-conscious school boards.

Whatever the structural short-comings of school buses, the sad fact is that half or more of these accidents could have been prevented by the driver. A 1972 Indiana study revealed that in 495 accidents, the drivers were at fault in 240—or 48 percent. A 1972 Nebraska study concluded that 66 percent of that state's bus accidents could have been avoided by alert, healthy, trained drivers.

Since the driver's job is usually a part-time one and pays poorly, most of the drivers are moonlighting. Many of them are full-time policemen or firemen. In some states, men and women as old as 70, with heart conditions, impaired eyesight or partial deafness, drive school buses. Even youngsters of 17, statistically a dangerous age for motorists, are driving buses.

Obviously, fatigue and the pressure of other jobs can make a driver accident-prone. But even without outside pressures, there are plenty of distractions inside the bus that can reduce driver efficiency—specifically, the problem of discipline. A bus provides the only period of the school day when there is no direct, full-time supervision of students yet it is the most hazardous time of all. Each time a quarrel erupts, or even innocent horseplay, the driver's attention is distracted from the road. The New Jersey Department of Education symposium recommended providing trained driver's assistants "to safely cross these young children as they load and unload the bus, conduct evacuation drills, maintain discipline."

Safety regulations are inconsistent. The Clarkstown school district had bus-route guidelines that prohibited travel over the dangerous Gilchrest Road crossing; neighboring Nyack had no such rule. There are generally rules against standees in the bus, but in Nyack they were not strictly enforced. Special screening and licensing of bus drivers also is a sometime thing. In May 1971 the New Jersey Division of Motor Vehicles found that 230 school-bus drivers had been given "special" licenses for their jobs without ever having possessed a regular driver's license. In Rockland County one driver was found to have a record of arrests for child molestation. Alcoholism occasionally surfaces, one driver kept a pint in the first-aid kit.

Whatever rules are ultimately established, there must be enforcement. At present there exists but the vaguest sort of regulation, much of it left to the carriers themselves. The public often believes the buses are owned and operated by the schools. Frequently, as in the Nyack school district, this is not the case, for economic reasons. In Nyack, cost of the buses alone would have been $331,000, so the district contracted for the service with a private carrier. The minimum requirement would therefore appear to be a stiff safety code for all carriers, enforced by state inspections.

RECOVERY

Twenty-five days after the accident, on April 18, Joseph Larkin broke his self-imposed silence. In a petition served on the Rockland district attorney, he said, "No one is more sorry than I for the tragedy of March 24, 1972. It will be part of me for the rest of my life. But it was an accident, not a crime."

Nonetheless, on April 27, Larkin was called before a carefully guarded grand jury sitting in the county courthouse in New City. Reporters and television crews gathered on the front steps to record his arrival, but he was smuggled into the building through a back door. He came out two hours later, his shoulders slumped, his face haggard.

The following Wednesday he was indicted on five counts of criminally negligent homicide—one for each of the five boys who died. It was the first time in New York State history that such indictments had resulted from a school-bus accident. "Criminally negligent homicide" means that the defendant's actions "constituted a gross deviation from the standard of care that a reasonable person would observe in the situation."

The indictments charged that "he failed to stop said school bus at a distance not less than 15 feet nor more than 50 feet before such (railroad) crossing, that he failed to shift into low gear; that he failed to stop for a clearly marked stop sign, and failed to have said bus under proper and adequate control . . . that he failed to open the bus door to look and listen, as required by the rules; and as a result of which he drove said school bus upon said tracks into the path of a Penn Central freight train, which was clearly visible, and which sounded an audible signal within 1000 feet as it approached the crossing with Gilchrest Road."

Larkin's wife stood close beside him during the reading of the indictment. At the completion, she silently wept. Her husband was led away to be photographed and fingerprinted; then he was released on his own recognizance.[1] By this time, 17 patients had been discharged from the hospital, and the remainder would be going home within the next 30 days. Among them was David Fleetham, Boy D, his leg still intact, and Barbara Trunz, the aspiring actress. Barbara won the female lead in the school play. A local newspaper critic wrote of her: "She has an impressive way of delivering a song. One factor that makes Miss Trunz's performance even more remarkable is that she performs on crutches. She moved with amazing grace."

The heaviest burden of recovery fell on the amputees. To lose a leg—at the youthful age of proms, athletics and budding romance—was a cruel blow.

One afternoon, shortly before she was to be discharged, amputee Joan Ferrara had a visitor—a stranger, an attractive young woman not much older than herself—who simply walked in and announced that she was a friend of Dr. Leahey, the doctor overseeing Joan's case. She sat down and began to chat.

Did she stare at the bed sheet, poked up by the one foot underneath, but smooth and flat where the other one should have been? Joan was convinced that she did, convinced that everyone who entered her room did so.

In return, Joan stared back with bitterness and envy at the visitor's two shapely legs, and thought, *Easy enough for her to be animated and happy; she is not half a woman.* But those dark thoughts were interrupted by an unbelievable scene. The visitor suddenly reached up under her skirt, unsnapped a couple of buckles and removed her right leg. Then she reached up a second time and removed her left leg. She, too, had been involved in a train accident, and she had lost both legs just below the knees.

She matter-of-factly described how the artificial legs worked. They were made of a new plastic material, soft to the touch. They slipped on over the stumps like a stocking, and attached to a sort of garter belt. They looked completely natural. After the visitor had put them back on, Joan found it difficult to believe what she had seen.

Before leaving, the young woman took Joan's hand in hers and said, "I'm getting married in June. Would you come to my wedding?"

MOST PRECIOUS POSSESSION

No matter what disaster befalls a community, there are still the unchanging rituals that mark the passage of time. In Nyack, on the evening of June 24, it was the hour for graduation. At eight o'clock, family groups began arriving at the school's football field, and by 8:30 the stands were full.

At the 50-yard line was a row of chairs for faculty, honored guests and student leaders. Centered was a podium, and on the left a cluster of music stands for the school orchestra. Behind was an eight-foot backdrop made of evergreen branches. The floodlights were focused here, leaving the goalposts distant and shadowy. Across the street to the west was the hospital, its lighted windows partly obscured by the trees that line Midland Avenue, but its presence strongly felt.

The class of 1972 emerged from the school, and in procession moved across the field to occupy the 235 chairs awaiting them. The boys wore black gowns and mortarboards, the girls white. "At last," muttered one parent, "you can tell the boys from the girls."

When it came time for the presentation of diplomas, the students walked up to the podium in alphabetical order. First was Steven Abernathy; the last would be Nazira Zada. Halfway through were the Ms, and as the names sounded, a hush settled on the

[1] On March 8, 1973, after 29 hours of deliberation, a jury found Larkin guilty on all five charges of criminally negligent homicide. On April 20, he was sentenced to five years' probation.

stands. Finally, over the public-address system came the words, "Richard Macaylo, with honor." Applause erupted on all sides, and continued steadily while a friend of the dead youth came forward to receive the diploma for the family.

At 10:30 the ceremonies ended and the stands emptied onto the field, where each graduate attracted a cluster of relatives. But these many islands were not isolated from each other; they were linked by the shared experience of tragedy. The young people had known loss, but also something gained—a discovery of their own human concern for each other. And in this they had found themselves buttressed by the adults of Nyack and the surrounding villages. The generation gap had dramatically narrowed, for they discovered they were loved.

After the congratulations, the handshakes and kisses, the groups slowly dissolved, some of them off to attend parties, others to return home. Soon the field, the goalposts, the stands and the assembled chairs were only shadows in the bright lights of the hospital across the way.

Three months later, on September 16, another ceremony took place: the dedication of a new children's park half a mile up the road from the railroad crossing. A bronze tablet embedded in a large stone was to be unveiled, and the audience included most of the surviving crash victims and their families. Some were still wearing casts, a few were on crutches, one was in a wheelchair.

At the far edge of the crowd, a man and his wife stood quietly, withdrawn. The man was Joseph Larkin, the bus driver. Though his arrival had not been noticed, an awareness of his presence soon ran through the crowd. A few glanced in his direction, then quickly looked away. No one reached out to comfort him; it was perhaps too much to expect of these grieving parents. But neither did they now reproach him or add to his torment. They realized that, whatever Larkin had done or failed to do, at this moment they were in the presence of courage.

Music was provided by the Nyack High School band, four of whose members were survivors of the accident. Then Cardinal Cooke gave a short address.

The plaque was undraped. It bore the date of the dedication, the names of those who had died, and these words:

THE CHILDREN'S MEMORIAL

In memory of our town's most precious possession—five of our youth. Their promise, as a result of tragedy, was unfulfilled. May all who pause to share this land realize each generation carries all our hopes and our heritage.

THE NATIONAL INSTITUTE OF DENTAL RESEARCH

Mr. MAGNUSON. Mr. President, I should like to take note that the National Institute of Dental Research is observing its 25th anniversary this year. The Institute was created by the Congress in recognition that dental diseases are a threat to the Nation's health, well-being, and productivity.

As a newcomer to the biomedical scene, dental research had neither a rich scientific base from which to draw sustenance nor a cadre of trained investigators to nurture its growth. In addition, the handful of men and women who comprised the National Institute of Dental Research had the difficult task of interpreting to an indifferent world the significance of the oral diseases they fought. Some 25 years—and nearly $400 million—later, the Institute is in its maturity both as an organizational entity and as a notable contributor to the sum of knowledge collected by the biomedical research community.

The uphill struggle is reflected in a bit of budgetary history. Although funding of individual project grants began in 1949, it was not until some years later that the level of scientific knowledge advanced sufficiently to support large-scale program projects and to bring into play teams of investigators from various disciplines able to use complex, costly equipment for sophisticated studies.

The development of a trained manpower pool was accelerated by the establishment in 1958 of a program of grants to provide graduate research training in disciplines fundamental to dental research. Through this program, hundreds of dental scientists have been trained in dental, medical, graduate, and other research institutions throughout the country. The fellowship program, dating back to the founding of the Institute, was also greatly strengthened. It is impossible to gauge the number of research breakthroughs that have resulted from this vital program. Extramural funding for research and training, which had laboriously climbed from $235,000 in 1950 to $521,000 in 1956, leaped up to $3,715,000 in 1957.

With the sharp rise in grant money in 1957, the scope of dental research began to expand. Similarly, as more opportunities for research and training developed, the Institute was able to involve an ever-increasing number of dental schools in the pursuit of knowledge. This support has enabled a long list of educational institutions to develop and maintain a creative research environment.

As congressional interest and support continued, the concept of interdisciplinary research centers attracted growing attention. It led to the appointment of a prestigious group of consultants to make a careful study both as to the need for and the best approach to such a program. Finally, in 1967, the Institute established a grant program to support a limited number of dental research institutes—centers—in university environments. This activity has its own line item in the congressional appropriations for the National Institute of Dental Research.

Five centers are now in operation at the Universities of Washington, Alabama, Michigan, North Carolina, and Pennsylvania. As they enter their sixth year of development, it is abundantly clear that they are fulfilling their major objectives. They have been unusually successful in attracting outstanding scientists in a variety of fields previously not involved in dental research. The participation of biological, physical, and social science specialists in the study of oral health problems is made possible by the interaction of the centers with the research and educational activities of the parent university.

The growing recognition of the programs of the Institute was further accentuated in fiscal year 1971, when the President declared dental caries as a special health initiative. By that time an adequate scientific base had been built on which to structure a targeted program of research and development. As a result, the national caries program was born with an appropriation of $5 million to sustain its initial operation. In 1973, supported by a budget of $8,697,000, it has gained dramatic momentum toward its goal of reducing the incidence of caries and extending the capability of the dentist, the hygienist and others on the dental team to prevent decay.

It is to the credit of the National Institute of Dental Research that progress against oral disease has been largely generated through its own support programs. Private assistance for dental research, particularly from foundations, has been generally absent.

Although about 80 percent of the Institute's total appropriations are spent for extramural research and training activities, the intramural staff has played a pivotal role in advancing the state of knowledge, particularly in caries, and more recently, periodontal disease. The nucleus of highly trained scientists at the NIH campus continues to serve as a catalyst for new insights and approaches. In company with their extramural colleagues, they are working to bring about a golden age of dental research and dentistry.

THE MASSACRE OF THE INNOCENTS

Mr. HARTKE. Mr. President, I want to say a few words about the continuing tragedy of the war in Vietnam. We had many deaths; some 55,000 men. But also we had the terrible ordeal involved in bringing back our prisoners of war.

Tonight another prisoner of war, who spent some 5.5 years in captivity, took his own life.

This is not the first case of that happening to a prisoner of war. It is certainly not the first case among those who participated in that war, the veterans of the Vietnam war.

I think it is high time that we take seriously the warning given to us by the doctor who said, after the prisoners of war had returned, that the health of those individuals, both physical and mental, was certainly not what it appeared to be on its face, and that something should be done to make sure that they had the proper adjustment, physically and mentally, back into society.

Yet nothing has been done. I would like to call to the attention of the Senate that it is high time we recognize that we are willing to go ahead and give people basic training, take them from civilian life, and put them into the military environment, while at the same time we have completely ignored the fact that there is also that type training which is necessary to bring those people back out of the military environment, to readjust them to their society.

We know that at the present time unemployment among veterans, for example, especially among those who served in Vietnam, is substantially higher than that of nonveterans of the same age.

We know that in the situation today as far as health treatment is concerned, there is a cutback instead of an increase, in the facilities made available for those

individuals; even though a million veterans will be added to the rolls this year, we will have fewer hospital beds than we had last year. We know that as far as educational benefits are concerned, they do not equal those that some of us received who came out of World War II.

In other words, these veterans are being treated as second class citizens, and being paid as second class citizens. My position against the war has made me all the more determined to make sure that those who participated in this war should receive not alone gratitude from the Nation they served, but more than that, that they should be respected and honored in a fashion which is meaningful to them.

There is nothing we can do for the young man who spent 5½ years as a prisoner of war in Vietnam and took his life today; but I think it is high time that those of us who have a responsibility for those who serve the Government accept that responsibility as seriously when the boys come out as we did when we sent them in.

As chairman of the Veterans' Affairs Committee, I thought it was appropriate that we call this matter to the attention of the Senate, and that we rededicate our efforts and our sincerity and do it with something which is meaningful and beneficial not alone in the field of education and child health generally, but also in that type of readjustment which is often neglected in the society, and that we recognize at some time that psychological and psychiatric treatment is as important as medical treatment.

Mr. PELL. Mr. President, I just wish to commend the Senator from Indiana on his remarks and say how particularly true it is to those of us who have opposed the war.

I could stand, perhaps, as firm as any other Senator, or firmer, in believing that those who fought the war and came back should be given the treatment, care, and compassion to which they are entitled. If anything, they should fare better than those of us who came back from World War II. We fared pretty well. We had benefits; we had the GI bill. We were received into the community.

Generally speaking, those of us who were not wounded or did not suffer came back better men for the experience. But the men who came back from Vietnam have come back unwelcomed, unable to find jobs, and not better men because of the conditions they experienced in Vietnam.

I think we have a responsibility to give them better care than they have received.

Mr. HARTKE. I thank the Senator from Rhode Island.

GUARANTEEING QUALITY MEDICAL CARE FOR DISABLED VETERANS

Mr. CRANSTON. Mr. President, on April 16 and 18, 1973, the Subcommittee on Health and Hospitals, which I am privileged to chair, of the Committee on Veterans' Affairs, conducted oversight hearings on the Veterans' Administration hospital program—including the quality and quantity of care for our disabled veterans, the impact on that care of the President's fiscal year 1974 budget, and the failure to implement Public Law 92–541, the VA Medical School Assistance and Health Manpower Training Act of 1972.

OVERSIGHT HEARING THEME

The theme for these hearings was set forth in my opening statement, when I said:

> These hearings are designed to answer the question: Whether or not it is the policy of the American people and its Federal Government that when the shooting ends, so does the compassion and concern for the veterans of the Indochina war and the veterans disabled from our earlier wars?

RESULTS OF PRIOR COMMITTEE OVERSIGHT

Mr. President, these hearings were the third set of VA medical care oversight I have chaired since coming to the Senate in 1969. The first two were in 1969–70, and 1971. Based on the extensive data developed at those hearings, I made comprehensive recommendations to the Appropriations Committee Subcommittee regarding the VA hospital and medical program budget items for each of the last 3 fiscal years.

The result has been that the VA hospital and medical program budgets were increased by $450 million above the President's initial budget requests over the last 3 fiscal years.

QUESTIONS TO BE ANSWERED AT 1973 HEARING

Mr. President, we posed a number of questions at the outset of the hearings held in April 1973, about the status of VA medical care under the fiscal year 1973 appropriations and freezes:

We asked how the treatment of sick and disabled Vietnam era veterans has been affected by:

President Nixon's impoundment of $64 million in fiscal year 1973 medical care funds?

The OMB's order that the VA hold back $4.8 million appropriated for medical and prosthetic research?

The fact that $35 million in fiscal year 1973 appropriations that was supposed to have been used to increase medical staffs in veterans hospitals has been used for pay raises instead?

As to fiscal year 1974, we asked:

How can the administration justify a proposed cutback in fiscal year 1974 VA hospital patient loads that will deny hospital care to 30,000 disabled veterans next year—and perhaps even twice that number?

And why did the Veterans' Administration bow to a demand by the Office of Management and Budget that it slash by more than half the VA request for hospital construction funds in fiscal 1974—from the $211,118,000 originally recommended by the VA down to $100 million flat?

We also tried, Mr. President, to find out why the VA has requested no funds and at that time taken no steps to implement Public Law 92–541, the "VA Medical School Assistance and Health Manpower Training Act of 1972," which I authored in the Senate last Congress and the President signed into law on October 24, 1972.

PRO FORMA VA DENIALS OF NEED FOR MORE FUNDS

Mr. President, the able VA spokesmen in their testimony at these hearings attempted to show how everything is "A-OK" with the VA hospital program. Of course, it is their job to take that position.

But I also know they have been saying that at hearings since 1969 and that they have been contradicted by our expert witnesses and their own subsequent actions time and time again.

The VA witnesses for these last 4 years have been telling us that they did not need more funds and did not need more hospital staff and did not need more medical equipment. Then, when we appropriated $450 million above the initial budget requests for the last 3 final years, they went out and increased staffing by 8,600 in 1 month alone and continued hiring new hospital personnel so that by the close of fiscal year 1973 we will have provided for the addition of 19,000 new VA hospital workers since 1970.

And the VA also used these same funds for equipment replacement, for construction and for other urgent needs—all of which they had officially denied existed when they appeared in congressional hearings. Over this time period they managed to spend most all of the $450 million Congress added to their budgets.

In addition, Mr. President, some startling facts came out of these hearings. For example:

The VA requested $173 million more for medical care for fiscal year 1974 than OMB decided was needed; and VA's own doctors had estimated the need at fully $240 million more than that amount.

The VA itself requested $16.5 million more for medical and prosthetic research, and OMB's response was to deny that increase and cut out $5.8 million more—below the fiscal year 1973 appropriation amount.

The VA requested approximately $29 million to establish some 161 new specialized medical services, such as cardiac units, alcoholism treatment units, drug treatment centers, home dialysis programs, intensive care units, nuclear medicine units and pulmonary labs. All these new specialized units were denied by OMB for fiscal year 1974.

Other interesting facts are that the VA estimated the necessary average hospital census at 83,000 in its projections to OMB and OMB slashed it to 80,000 and at the same time added a substantial number of outpatient visits the VA itself had not anticipated.

Turning to construction needs, we found further startling revelations:

First. There is no money for air conditioning of VA hospitals in the fiscal year 1974 budget, as compared with reasonable progress in air-conditioning over the last 2 years. Funds for air-conditioning or planning air-conditioning at eight VA hospitals were axed by OMB: at Poplar Bluff, Mo.; Huntington, W. Va., Kerrville, Tex.; Salisbury, N.C.; Gulfport, Miss.; Waco, Tex.; San Juan, P.R.; and Wichita, Kans. I would like to see the OMB decisionmakers give up their air-conditioned ivory towers in the EOB as readily as they deprive sweltering sick and disabled veterans in climates like these from a decent state of comfort.

Second. $16,333,000 were deleted for urgently needed research and education space.

Third. One hundred beds and $7.4 million were slashed from the Loma Linda, Calif., hospital construction project without any demographic study on which to base such cuts.

REAL DECISIONMAKERS HIDDEN

There was much more, but that is the flavor. Mindless, apparently thoughtless, reductions here, cuts there, all laid down by arbitrary OMB fiat.

Yet of course, Mr. President, we could not question the real decisionmakers themselves to learn directly the real reasons why. Nevertheless, through the hearings and our subsequent investigations, we did our best to get to the bottom of this so as to prevent any unwarranted program cutbacks and learn where program expansions were necessary.

Finally, Mr. President, I want to stress that in these hearings we continued to investigate areas where savings in the fiscal year 1974 budget could be carried out, but because OMB had already slashed over $300 million from the VA hospital and medical submissions, we were unable to develop any recommendations for increases in these budget items.

DEMANDS FOR CARE OF VIETNAM ERA VETERANS

The VA hospital situation must be viewed in the context of the steadily increasing demands being made on the VA in and outpatient medical programs by Vietnam era veterans. According to the most recent data, during fiscal year 1972, Vietnam era veterans constituted 15.9 percent of all veterans discharged from VA Hospitals, as compared to 13.2 percent in fiscal year 1971 and 9.9 percent in fiscal year 1970.

The same pattern exists with respect to outpatient visits. In fiscal year 1972, Vietnam era veterans accounted for 17.8 percent of all VA—staff and FEE—outpatient visits, as compared to 14.9 percent and 10.8 percent in fiscal years 1971 and 1970, respectively.

Mr. President, of particular significance, it seems to me is that Vietnam era veterans constitute 26.2 percent of all veterans discharged from VA hospitals in fiscal year 1972 after treatment for service-connected disabilities.

Although the trends I have outlined toward greater care of Vietnam era veterans by the VA hospital and medical program will not continue indefinitely at the same upward pace, I am aware of no indication that they will not continue upward over the next several years.

Thus, this is the time of the very greatest demands on the VA system by our most recent and, as our hearings have illustrated only too plainly, our most seriously disabled veterans.

FISCAL YEAR 1973 BUDGET RESTRICTIONS AND FREEZES

However, Mr. President, our hearings indicated that OMB was once more in the process of imposing restrictions, freeze, and other funding controls with a view toward seriously constricting the scope and effectiveness of VA treatment programs.

The $64 million appropriated by the Congress for the VA for fiscal year 1973 have been impounded and another $35 million of that medical care appropriation has been applied to pay for the January 1973, pay raise for the Department of Medicine and Surgery.

In addition, the one-tenth of a grade rollback imposed by OMB continues in force at least through fiscal year 1973, with the effect through January 8, 1973, that of 22,457 essential promotions reported by each of the 168 VA hospitals throughout the country, only 2,610 of these 22,457 were accomplished.

Those actions with respect to the fiscal year 1973 VA budget have had a serious negative impact on overall VA hospital staff morale, accompanied by the loss of medical care competence and experience as lesser qualified staff must be hired to replace existing hospital workers leaving under normal attrition. Together these factors pose a continuing serious problem for the caliber of care for our disabled veterans.

ARBITRARY RESTRICTIONS ON PATIENT CENSUS IN FISCAL YEAR 1974 BUDGET

Mr. President, the situation regarding the fiscal year 1974 budget request of the President can only be viewed in the context of these fiscal year 1973 budget actions. In addition, there is plenty of bad news itself in the VA fiscal year 1974 budget submissions.

Most serious is the requirement that the VA reduce the daily patient census in existing VA hospitals by 2,698 in fiscal year 1974, which in individual patient-care terms translates down to denying VA hospital care next year to between 30,000 and 54,000 disabled veterans who would otherwise receive it.

Mr. President, all of this will come—if the Congress permits it—at a time when the VA will be activating five new hospitals and several new affiliations with medical schools—all requiring millions of new dollars and hundreds of new staff to be carried out.

FISCAL YEAR 1974 APPROPRIATIONS RECOMMENDATIONS

Mr. President, it is against this background that we undertook and carried out our oversight hearings this past April. These hearings produced a great amount of very detailed factual information—most of which was submitted by the VA itself in response to our specific inquiries.

After compiling and analyzing all of the exhibits and other materials developed at these hearings, Chairman HARTKE, chairman of the Committee on Veterans' Affairs, and I submitted Monday, June 25, 1973, to the Appropriations Subcommittee on HUD-Space, Science-Veterans, our recommendations for increases in the VA hospital and medical budget items and for certain matters to be discussed in the Appropriations Committee report.

The total amount we recommended be added above the amount in H.R. 8825, the House-passed act, was $158,679,063 plus retention of the $14,350,000 which had already been added in the House-passed act to the medical care item to increase nursing staffs.

BREAKDOWN

A breakdown of our recommendations is as follows:

First. $80,366,063 for medical care, in addition to the $14,350,000 already added by the House, for 6 purposes: First, to support an average daily patient census 2,000 higher than arbitrarily projected in the President's budget; second, to activate closed wards at 7 VA hospitals where there is a clear demand for hospital beds; third, to establish three new outpatient clinics; fourth, to establish programs to improve admissions services at 102 affiliated hospitals; fifth, to add staffing so as to meet minimum requirements prescribed by the Joint Committee on Accreditation of Hospitals with respect to emergency coverage; and sixth, to establish 52 new and upgrade 39 existing specialized medical services units—spinal cord injury programs, alcohol dependence units, hospital-based home-care programs, pulmonary function labs and intensive care units.

Second. $9,375,000 for medical and prosthetic research over the amount in the budget which the House retained. This increase would be: First, to provide funds to meet the 8 or 9 percent research inflation costs in order to maintain a level program effort; second, to bring animal research standards in eight VA hospitals up to minimum national standards; and, third, to support research at seven VA hospitals newly affiliated with medical schools.

Third. $13,938,000 for construction of hospital and domiciliary facilities above the amount in the President's budget which the House retained. This increase would be: First, to complete eight air-conditioning projects which were scheduled for VA hospitals in some of the hottest areas of the country, but were cut out by OMB—these funds to be made available with the cavat that no Federal funds to air-condition OMB building shall be expended until the money for VA hospital air conditioning is released; second, to correct seismic defects in certain VA hospitals and proposed by the VA but disapproved by OMB; and, third, to acquire necessary temporary facilities for a new outpatient clinic.

Fourth. $55,000,000 for training assistance grants to health manpower training institutions pursuant to Public Law 92–541.

Mr. President, I ask unanimous consent that these be set forth in the RECORD at this point, June 25, 1973, letter to the distinguished Senator from Wisconsin (Mr. PROXMIRE), chairman of the Appropriations Subcommittee, and the accompanying detailed narrative justification, summary of recommendations, and appendixes.

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

U.S. SENATE,
Washington, D.C., June 25, 1973.

HON. WILLIAM PROXMIRE,
Chairman, HUD-Space, Science-Veterans Subcommittee, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter supplements Senator Cranston's letter to you of June 20, in which he recommended the in-

clusion in H.R. 8825, which contains the Fiscal Year 1974 appropriations for the Veterans Administration, of $55 million for implementation of P.L. 92–541, the Veterans Administration Medical School Assistance and Health Manpower Training Act of 1972.

As mentioned in that letter, there are a number of other specific areas in the administration of the Veterans Administration medical and hospital program which testimony at oversight hearings before the Veterans Affairs Subcommittee on Health and Hospitals on April 16 and 18, 1973, has shown require additional funding. We would like at this time to bring to your attention these areas and our recommendations based on the information presented to the Subcommittee.

In total, we recommend the addition of the following amounts over the President's budget in the following three appropriation items in H.R. 8825:

RECOMMENDED INCREASES IN VA HOSPITAL AND MEDICAL BUDGET ITEMS

A. Medical Care:	
1. (new in this letter)	$80,366,063
2. (P.L. 92–541)	55,000,000
3. (House action)	14,350,000
Total	149,716,063
B. Medical and Prosthetic Research	9,375,000
C. Construction of Hospital and Domiciliary Facilities:	
1. (major)	11,938,000
2. (minor)	2,000,000
Total	13,938,000
Total hospital and medical program increases	172,029,063
1. Previously requested for P.L. 92–541	55,000,000
2. House action	14,350,000
Total subtraction	−69,350,000
Total new recommendations	103,679,063

We would like to point out that the total amount—$172,029,063—we are recommending be added to the VA hospital and medical program appropriation items above the budget request is far less than the $301,126,000 which the Office of Management and Budget struck from the agency's submission for these same items. This overall total of approximately $172 million also is approximately half of the amounts which were recommended to the Appropriations Committee for the last two fiscal years as a result of prior years' oversight hearings and investigations conducted by the Subcommittee on Health and Hospitals.

In view of our commitment to the establishment by Congress of an overall budget ceiling and our desire to eliminate unnecessary Federal spending, we have attempted to pare our recommendations to the minimum, and have eliminated many items worthy of serious consideration. Moreover, we have searched the VA hospital and medical program budget very carefully to determine if there are cost savings and efficiencies to be realized in each of the three appropriation item amounts requested by the Administration (Medical Care—$2,591,202,000; Medical and Prosthetic Research—$71,000,000; and Construction of Hospital and Domiciliary Facilities—$100,000,000). We had hoped to be able to find some areas where reductions could be recommended, but we have not been able to do so.

Actually, the O.M.B. $300 million plus cut has removed the fat along with much meat. We believe, however, that the relatively modest amounts we are recommending be added to the three appropriation items could readily be derived from the elimination of only a tiny fraction of the $30 billion requested by the Administration to operate U.S. military installations in foreign countries.

Attached is a comprehensive submission for the Subcommittee, including a detailed narrative justification for each recommendation, a summary of the recommendations, and several appendices.

We urge your fullest and most sympathetic consideration of our recommendations. We very much hope we can have the support of the Subcommittee and the full Committee for adding the recommended increases and making the points we have proposed for the Committee report, so that these matters will be in the strongest possible posture for consideration by the full Senate.

With best regards,

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals.

VANCE HARTKE,
Chairman, Committee on Veterans Affairs.

SUBMISSION TO APPROPRIATIONS SUBCOMMITTEE ON HUD–SPACE, SCIENCE-VETERANS AND CERTAIN INDEPENDENT AGENCIES, NARRATIVE JUSTIFICATION FOR FISCAL YEAR 1974 APPROPRIATION, RECOMMENDATIONS BY SENATOR ALAN CRANSTON, CHAIRMAN OF THE VETERANS AFFAIRS SUBCOMMITTEE ON HEALTH AND HOSPITALS AND BY SENATOR VANCE HARTKE, CHAIRMAN OF THE COMMITTEE ON VETERANS AFFAIRS FOR VA HOSPITAL AND MEDICAL PROGRAM

I. ADDITIONAL FUNDING

A. Medical care item

1. Patient Care

Mr. Chairman and members of the Subcommitte on Hud-Space, Science-Veterans and Certain Independent Agencies, the Senate Veterans' Affairs Committee and the House Veterans Affairs Committee, with the assistance of the national veterans organizations have been compiling data on the many cases brought to their attention where veterans have been denied admission to VA medical facilities and have been forced to seek and have received needed care in the community. This data—involving hundreds of cases—is now being analyzed in depth, but a preliminary analysis shows very clearly that there is a constant unmet demand for health care in VA facilities.

The House Veterans Affairs Committee has conducted a limited two week survey of several thousand veterans who applied to VA medical facilities for treatment of a variety of medical problems. While a majority expressed either general or limited satisfaction with their treatment, there were hundreds who expressed either minor or major dissatisfaction with some phase of their treatment episode. For instance: a) many expressed denial of hospitalization either because of apparent incomplete examination or artificial admitting guidelines based on numerical rather than medical considerations; b) others complained of overcrowded and understaffed admitting facility which created chaotic and confused conditions often contributing to inordinate decision delays in the admitting or treatment process; c) there was considerable dissatisfaction with the medical and personal demeanor of many employees, largely attributable to understaffing and overcrowding; and d) there was apparently less than satisfactory attention paid to patients by VA medical staff members.

Figures provided by the Veterans Administration itself show that the average daily patient census (ADPC) for fiscal year 1973 has been consistently between 1000 and 2000 higher each month than the census for the comparable month in the previous year.

In fiscal year 1971, as you will recall, OMB ordered a reduction in the ADPC of over 5,000 which resulted in the total ADPC falling to 79,865 by the end of that fiscal year. Since then, due to strong Congressional protest that this figure should be based on medical need rather than budgetary considerations, and mandates in the FY 1972 and 1973, Appropriation Acts the ADPC has been rising steadily, reflecting a figure more nearly approximating the actual hospital care needs of veterans. On March 6, this year, the Senate passed S. 59 by an 86–2 vote. The Veterans Health Care Expansion Act of 1973 directed that an ADPC be maintained at a level of 82,000 for any fiscal year, and that individual station allowances be premised on a census of 85,000. This step was taken by the Senate as a response to a further proposed arbitrary reduction from 82,000 to 80,000 directed by OMB for FY 1974.

The ADPC figures to date indicate that the ADPC for fiscal year 1973 will be somewhat in excess of the figure in the Senate bill and, given the documented cases of veterans needing hospital care who have been turned away by VA facilities, the figure should actually be higher. For example, the estimated monthly census during May, 1973 was 82,493, as compared to 81,305 for May a year ago.

Despite these realities ,the Administration has predicated its FY 1974 budget request on an average daily patient census for fiscal year 1974 of 80,000, obviously an inadequate projection. We, therefore, recommend that your committee increase the medical care appropriation by $45,360,000 which would provide the 3,000 staff needed for the VA to maintain this ADPC of 82,000 in fiscal year 1974 and direct O.M.B. to provide the necessary personnel ceiling to support this funding increase for new personnel. This figure is based on providing the staff-to-patient ratio of 1.5 to 1 set in the budget request, for each additional occupied bed, a ratio which is barely adequate in comparison to the ratio in community hospitals generally of 2 or 3 to one, or more.

In any event, we urge you to discuss in your committee report the ADPC history and the need for O.M.B. to refrain from arbitrarily reducing it in the face of a demonstrated demand for hospital care.

2. Activation of Closed and Needed Wards

Our recent oversight hearings also brought out that there are a number of wards in seven VA hospitals throughout the country which have been closed due to lack of staff to provide care to the patients. The closed wards amount to 278 needed beds denied to eligible veterans—the equivalent of an average sized VA hospital. We wish to stress that the full data provided by the VA showed 49½ closed wards at 32 hospitals, and those we are including in our recommendation are only those where the VA's own data confirms that there is a *demand* for services which is not being met.

Reactivation of these seven wards would mean that eligible veterans in these areas could receive needed treatment without delay. We recommend that $2,478,063 be added to enable the hiring of the 197 medical personnel needed to open these 278 beds in these seven wards.

Following is a listing of the locations of the hospitals, the number of beds in the wards, and the number of personnel needed to staff the wards adequately:

VA Hospital	Beds	Personnel
Lyons, N.J.	51	32
Atlanta, Ga. (alcohol unit)	40	28
Columbia, S.C.	38	27
Dallas, Tex.	72	50
Miami, Fla.	31	22
Topeka, Kansas	27	28
Saginaw, Michigan (respiratory care unit)	19	10
Total	278	197

3. Nurse Staffing Enrichment

We were very pleased by the House action adding $14,350,000 to the medical care item specifically for upgrading the number of nursing and related staff in VA medical facilities. This is fully in line with testimony received at oversight hearings since 1969. In addition, the VA's own studies show that nursing staffing in VA hospitals is clearly inadequate in numbers, and on certain shifts such as at night, it is dangerously low, by comparison with comparable ward units in community hospitals. This subject was discussed at length in the report on S. 59, (No. 93–54) on pages 29–31, copies of which are attached for your information in the appendix.

We urge that you retain this added $14,350,000 amount for nursing staff enrichment and that you specifically direct that O.M.B. assign the 1,000 additional personnel positions to the VA for this purpose. You will recall that last year the approximately $54 million additional appropriated for more hospital staff to support a higher ratio than projected was shortcircuited when O.M.B. refused to assign the necessary ceiling.

4. New outpatient facilities

During our oversight hearings in April, Senator Cranston discussed with officials of the Veterans Administration the need for additional outpatient facilities in Los Angeles, California, and in Sacramento, California. There is a real demand in Los Angeles for additional treatment centers for veterans in areas more easily accessible than are the current VA facilities located downtown or in West L.A. We have received assurances from the Los Angeles County Department of Health Services that they are eager to enter into cooperative relationships with the Veterans Administration at locations where the county already has health facilities. Two of the Los Angeles county facilities are already integrally connected with medical schools—the L.A. County Medical Center, in East Los Angeles, with the University of Southern California, and the Martin Luther King Jr. General Hospital, in South Central Los Angeles, with the Charles Drew Postgraduate Medical School.

Each of these locations are easily accessible to a large number of eligible veterans, particularly Black and Chicano veterans in the central and eastern areas and in the south central areas of Los Angeles County. The existing affiliations with medical schools offer an opportunity to the VA to provide care in an outpatient center which would have readily available the finest resources in staff, facilities, and equipment. The estimated cost of operating such a new center is $5,750,000 the first year, and we recommend that the $5.75 million be included in the appropriations act for 1974 for the two new centers in Los Angeles County ($11.5 million now being utilized at the downtown L.A. outpatient clinic can be reprogrammed.)

The establishment of an outpatient facility in each instance would not necessitate any construction, since there is adequate space available in the county facilities. One of the facilities would replace an already existing outpatient clinic operating out of rented space in downtown Los Angeles; operating costs for that facility in fiscal year 1973 which are estimated at $11,432,000, would be shifted to support the new centers.

In the Sacramento area, we have been receiving numerous and repeated inquiries from veterans organizations from the entire far Northern California region as to the possibility of a VA facility to serve the veterans in that area. The recent affiliation of the VA Hospital in Martinez, California—some 60 miles from Sacramento—with the University of California Medical School at Davis offers an ideal opportunity for this affiliation to be strengthened by the establishment of an outpatient facility at the Sacramento County Hospital—which is the clinical center for U.C. Davis. Such a facility could be initiated in temporary buildings for about $800,000 in the first year, with an additional $1.5 million for first-year operational cost. The facility would serve approximately 130,000 veterans in the immediately neighboring counties of Sacramento, Yolo, Solano, and Contra Costa, and could be a forerunner of the eventual relocation of the Martinez Hospital to Sacramento where it would be much more effectively located in terms of proximity both to eligible upper California veterans and its affiliated medical school.

We urge the inclusion of $2.3 million for this Sacramento VA outpatient facility.

5. Hospital and mission improvements

Some very promising findings are resulting from a pilot study conducted at 12 VA Hospitals where special efforts are being made to reduce the length of time required to admit a patient. Based on these studies, we estimate that the addition of 10 staff at each hospital can significantly reduce the inexcusable delays of many hours which currently are the norm in far too many VA hospital admission operations. To implement this program would cost approximately $100,000 per hospital. As a start, we believe these new policies should be implemented at those hospitals which are a part of a major medical complex, where the admission rates are high and where the patients tend to be suffering from more serious illnesses. At the minimum, those VA hospitals affiliated with medical schools should have the benefit of these improved admission policies, and we recommend that $10.2 million be added for improved admissions services at these 102 hospitals.

6. Emergency coverage

We were also very surprised to learn that few of the VA hospitals meet one of the requirements of the Joint Commission on Accreditation of Hospitals—that is, to have 24-hour emergency coverage. To meet this requirement, the VA estimates it would need one additional person on duty at all times. For each hospital this would mean the addition of six FTEE at a total cost of $10 million. While this is an ideal projection, we believe that with better utilization of admission personnel during the day-time shift, this could be reduced to an additional four FTEE individuals per hospital. We also believe that in many of the hospitals, particularly those in scarcely populated areas, the demand for emergency services is more limited than in urban areas, and, therefore, the staff might be more effectively utilized on an ad hoc basis. Thus, we recommend addition of $5 million to provide for emergency coverage at VA hospitals as required by the JCAH standards. In any event, we expect the VA to make every effort to meet this requirement through better utilization of existing personnel, and through better means of communication within the hospital in an emergency situation.

7. Specialized medical services program

Specialized medical services programs initiated in the Veterans Administration hospital system have been of tremendous value in providing highly specialized care to veterans suffering from serious illnesses. In fiscal year 1973, the number of these specialized units had grown to 1187, and the VA has made great advances in developing new treatment procedures to provide care to veterans in these units.

It is generally conceded that high quality care today is virtually impossible without such programs specializing in intensive care, coronary care, nuclear medicine, respiratory care, drug and alcohol treatment, mental hygiene, and speech pathology, for example.

In its budget submission to OMB, the VA had requested $39,101,000 for upgrading 139 existing units and establishing 121 new units. The OMB allowed only $2,328,000 for a very limited expansion of this much needed program area.

We have carefully analyzed those programs deleted by O.M.B. to ascertain those we believe hold promise of the most cost effective improvements in the most urgently needed care categories.

(a) Spinal cord injury home care program

The general oversight over VA programs conducted by the Subcommittee on Health and Hospitals has shown that four programs providing hospital-based home-care services for the spinal cord injured have been proved highly effective in easing and speeding the readjustment of these catastrophically injured veteran to life in the community. The program consists of periodic visits to the recently hospital-discharged veteran in his home by a coordinated team of physician, nurse, therapist, nursing assistant, psychologist and social worker. Working together in helping the veteran adjust to his home and community, as well as working with the family so they may provide the necessary support to the veteran these multi-disciplinary teams have facilitated the transition of the spinal cord injured veteran from hospital patient to member of the community.

We believe that the success achieved at the four hospitals currently providing this service—Long Beach, California; Richmond, Virginia; and Bronx and Castle Point, New York—should be repeated at additional locations, specifically at Hines VA Hospital in Chicago, Illinois; and the VA hospitals in Memphis, Tennessee; West Roxbury, Massachusetts; and Cleveland, Ohio. There has been an eleven percent increase in admissions to VA spinal cord injury centers in the last fiscal year. This increase adds to the importance of finding new means of releasing patients more quickly. We, therefore, recommend that $544,000 be added to the Medical Care appropriation for this purpose to establish these four new S.C.I. home-care programs and to upgrade those at Castle Point and Bronx, New York.

(b) Alcohol dependence treatment centers

The VA now operates and staffs the nation's largest single system for alcoholism rehabilitation. Alcohol abuse and related health problems represented 13 per cent of total VA hospital discharges for 1969. VA and DOD figures show that of the approximately 9.5 million veterans discharged since the Korean War, 235,000 now have, or had at time of discharge, an alcohol problem serious enough to require hospitalization. Further, the VA states that one in seven of their present patient load has a diagnosis or sub-diagnosis of alcoholism.

It is apparent that the veteran population is in no way spared the overall population's problems with what Special Assistant to the President Dr. Roger Egeberg called the nation's number one health problem—alcohol abuse. We must continue to provide the priority and care this problem deserves.

The average peak age of the alcohol abuser among veterans is 40–55. Recent projections by the VA show a continued high incidence of veterans with alcohol abuse problems through 1985. Therefore, we must be sure sufficient resources are made available to meet what will be, unfortunately, a continuing high demand for many years to come.

Hence, we urge addition of the $2.16 million which O.M.B. deleted from the VA FY 1974 request for the establishment of 10 new and the upgrading of 4 existing Alcohol Dependence Treatment Centers. As indicated in the Senate Report (No. 93–56) on S. 284, the Veterans' Drug and Alcohol Treatment and Rehabilitation Act of 1973 (pages 21–22), activation of these 10 centers and upgrading of the four was postponed until FY 1975. These facilities are needed now to continue the growth toward meeting the enormous unmet need for alcoholism treatment facilitates as these veterans grow older and require hospitalization and rehabilitation.

(c) Hospital-based home-care programs

The same services involved in the spinal cord injury home-care program are utilized to benefit other seriously ill and severely disabled veterans. A hemiplegic patient, for example, may need this same type of continued monitoring which can be provided effectively outside the hospital. Similarly, the blinded veteran needs re-orientation to adjust to his home and community.

These types of therapeutic and medical problems for severely disabled veterans can be anticipated and dealt with to some extent during hospitalization. But total reorientation to home and community can take place only when the patient is actually back in that milieu. In addition, many medical services can be more effectively provided in the very personalized and supportive environment of a loving family, rather than in an institution, no matter how adequately staffed. That is why these programs are so important and need to continue to expand.

Therefore, we are recommending that $1.273 million, which O.M.B. cut from the VA budget request, be added to activate 15 new and upgrade 16 existing Hospital-based home-care programs.

(d) Pulmonary function laboratories

Documentation by the Office of Vital Statistics of the Bureau of the Census shows that deaths from respiratory disorders are increasing at a more rapid rate than deaths from any other cause. Before proper treatment, either through inhalation therapy or through surgical procedures, basic laboratory information must be made available to the surgeon or the therapist.

With an ever-increasing patient load in this area, the need for the 12 new laboratories requested by the VA but not approved by O.M.B. is obvious. Without the ability to quickly and adequately diagnose the pulmonary problems and their seriousness, the patient may suffer prolonged and unnecessary discomfort.

Complete diagnostic testing requires about two hours, or perhaps a half day if the entire eight-test series is required. It is imperative that prompt testing be available so that appropriate early diagnosis can be assured in order that therapy can be implemented as quickly as possible.

Hence, we recommend the addition of $360,000 for 12 new pulmonary function laboratories—cut out of the budget by O.M.B.

(e) Intensive care units

The addition of many new and sophisticated devices and means of therapeutic relief through surgery for far more illnesses has created a need for highly specialized units to provide the most comprehensive care for patients who need constant attention and supervision. In addition, use of this complex machinery requires highly specialized personnel, who must be assigned full time to these units.

The Veterans' Administration projections show that in FY 1973 195,000 days of patient care will be given in Intensive care units. This is an increase of 15,000 from FY 1972. Certainly, there is every indication that such increases will continue.

We, therefore, recommend addition of the $5.741 million which O.M.B. deleted from the budget request to activate 17 new I.C.U.s and upgrade 11 existing units.

In total, then, we recommend that the Medical Care item be increased by $80,366,063 over the budget request.

B. Research item

The April oversight hearings also provided the Subcommittee with invaluable data on the importance of research to the care of veterans, and on the inadequacies of the proposed VA budget for FY 1974 in this regard.

1. Meeting Inflation

Testimony was provided from eminent research figures—such as Dr. Michael De Bakey, President of Baylor Medical College—that, in general, just to maintain research at the same level at which it was conducted in fiscal year 1973, an increase of 8–10% would be essential to offset increased research costs just due to inflation.

The budget request when coupled with almost $5 million in unobligated fiscal year 1973 funds, provides for roughly a $2.6 million increase in funds available for research. This $2.6 million, the VA says, would cover the costs of 100 additional personnel and some initial research programs. But this does not take into account increased costs due to inflation. In addition, the VA submitted to the Subcommittee a list of the research programs which had been approved by the central office and included in the original VA budget submission to OMB. These deleted research programs totaled $16.5 million to be spent at 124 hospitals.

We recommend that at least $6.8 million be added to the medical and prosthetic research item budget request of $71 million in order to keep the VA research programs operating at the same level as fiscal year 1973. This $6.8 million represent a 9% increase over the $76 million appropriated for fiscal year 1973.

2. Meeting Minimal Animal Research Standards

During hearings the committee members learned that eight VA hospitals failed to meet minimum national standards for animal research facilities and that funds which would have corrected these deficiencies were included in the $4.8 million in research appropriations which was frozen in FY 1973. The following eight stations among a total of 97 with animal research programs in medicine do not presently meet minimum standards and need the amounts included parenthetically to come up to such standards within two years: Atlanta, Georgia ($157,000); Chicago, Illinois (Research) ($24,000); Long Beach, California ($200,000); Minneapolis, Minnesota ($187,000); Palo Alto, California ($80,200); Pittsburgh, Pennsylvania (UD) ($140,000); Salt Lake City, Utah ($15,300); and Tucson, Arizona ($250,000). We urge the inclusion of the necessary $1,535,500 to upgrade these animal research facilities to meet minimum national standards.

3. Research Funding for New Medical School Affiliations

In addition, where there is a new affiliation agreement between a VA hospital and a medical school, there will be an immediate need for increased research funding to support the expanded medical care programs which necessarily follow. There were 3 new affiliations in fiscal year 1973, and in these cases, research programs were not increased commensurately. There will probably be 3 or 4 new affiliations in fiscal year 1974, and in each of these cases a minimum increase should be allowed of $150,000 for each facility. This amount should also be made available to the 3 new affiliations completed in fiscal year 1973.

To make the most out of these affiliations in terms of the improved patient care which flows from an active research program, we recommend that $1 million be added to the research appropriation so that the benefit of these 7 new medical school affiliations can be fully realized, and the expertise of the highly qualified staff who will be attracted to a VA hospital with a medical school affiliation can be fully utilized.

In total, then, we recommend that the Medical and Prosthetic research item be increased by $9,375,000 over the budget request.

C. Construction of hospital and domiciliary facilities item

1. Restore Scheduled Air Conditioning Projects

Although the VA has between 30 and 35 hospitals (VA data appears unclear as to the precise number) that have been determined to be in need of air conditioning, the FY 1974 Construction budget contains no funds to be able to continue the significant progress made over the past several years—under Congressional prodding—to reduce this "swelter gap". This is because O.M.B. cut out $10,138,000 for eight projects (6 major and 2 minor) for some of the hottest areas of the country.

There is positively no justification for O.M.B.'s removal of these funds from the VA's budget submission. Certainly those disabled, sick and dying veterans and the overworked staff attending them in hospitals in such climates as Gulfport, Mississippi, and Wichita, Kansas, deserve the simple comfort enjoyed by those who work in the air conditioned, dehumidified, often dehumanized, comfort in OMB. The denial of that VA request is not "fiscal responsibility" on the part of OMB, it is gross insensitivity.

We, therefore, recommend full restoration of the $10,138,000 deletion from the Construction item in order to proceed with the scheduled air conditioning projects at the following hospitals (the last two of which were classified as minor projects): Poplar Bluff, Missouri; Huntington, West Virginia; Kerrville, Texas; Salisbury, North Carolina; Gulfport, Mississippi; Wichita, Kansas; and Charleston, South Carolina. It is imperative that these funds be restored so that our disabled veterans can enjoy a sane, healthful temperate climate during their hospitalization period.

Frankly, we find O.M.B.'s action in this particular instance lacking even a scintilla of justification and especially inhumane. We strongly believe O.M.B. should be administered a taste of its own prescription for ill veterans. Thus, in addition to adding the funds for the eight air conditioning projects, we urge that the following provision be added to this appropriation item: *"Provided*, That unless the $10,138,000 included in this item for air conditioning projects at eight Veterans' Administration hospitals are made available for obligation in full, no funds appropriated in this or any other Act shall be used in connection with the expense of air conditioning or cooling of any building to which employees of the Office of Management and Budget or of the Executive Office of the President are assigned."

2. Correction of Seismic Defects

The budget request includes $5 million of the $8,000,000 ($4 of $5 million in the major construction projects and $1 of $3 million in the minor projects) requested by the VA to correct seismic defects in existing VA medical facilities. After the disaster at the San Fernando, California, Hospital just 29 months ago with the tragic deaths, injuries and property loss to patients and staff, and the enormous disruption of the operation of the Wadsworth VA Hospital in West Los Angeles due to the massive evacuation 18 months ago due to seismic deficiencies found as a result of comprehensive engineering and seismic surveys, we fail to comprehend how O.M.B. can ignore the safety of those patients in other areas relegated to the "it can wait" category by the deletion of $3 million. It is imperative that all these scheduled corrections be made immediately. It is criminal in the true sense of the word to allow known defects like this to remain unabated, for despite O.M.B.'s life and death pursestring control, even it cannot cause the next earthquake to wait for a more propitious budgetary situation.

We thus recommend addition of $3 million to the construction item ($1 million for major and $2 million for minor projects) to carry out the seismic corrections scheduled but disallowed by O.M.B.

3. Temporary Facilities for Outpatient Clinic

In connection with the discussion under item A. 4., above, proposing establishment of an outpatient facility at Sacramento, California, we recommend that $800,000 be added to the minor projects Construction item to support acquisition of temporary (trailer, prefabricated, etc.) facilities for a Sacramento outpatient clinic.

In total, then, we recommend that the Construction of Hospital and Domiciliary Facilities item be increased by $13,938,000 over the budget request.

The totals we are recommending be added in the three appropriation items is $80,366,063 for Medical Care plus $55,000,000 for implementation of P.L. 92-541, $9,375,000 for Medical and Prosthetic Research, and $13,938,000 for Construction of Hospital and Domiciliary Facilities, for a grand total above the budget request of $158,679,063 plus retention of the $14,350,000 added in Medical Care by the House to increase nursing staffs. The total above the budget request, then, is $173,029,063.

II. PROPOSED REPORT LANGUAGE

A. Medical care

1. Hospital Census Situation

We have covered this matter in our discussion of item A. 1., above.

2. Personnel Ceiling for Funded Staffing Additions

Under items A. 1. and A. 2., above, we have stressed the importance of directing that personnel position ceilings be provided by O.M.B. in connection with the addition of any funds provided for new staffing. This applies to virtually every one of our recommendations.

3. Pay Raise Cost

We continue to be concerned by the omission in the Veterans' Administration budget of a request to cover the costs of the pay raise which went into effect in January of 1973. The cost of this pay raise in fiscal year 1973 for the Medical Care appropriation is $35,790,000 and for fiscal year 1974 will be $75,198,000.

The OMB has imposed very rigid employment ceilings, as well as a reduction in the average grade level. These arbitrary controls already have restricted the VA's ability to provide adequate care to eligible veterans. With the increased emphasis on outpatient care "to obviate" the need for hospitalization where feasible, a move we have long urged, as proposed in S. 59, we have grave concerns lest sufficient leeway not be provided to support the increased staff to enable VA outpatient services to expand their programs, particularly if any part of the $76.37 million pay raise cost (including $1.17 million for Research salaries) is squeezed out of the VA's FY 1974 appropriations rather than fully provided for in a supplemental appropriation bill.

We wish to stress that this is the position which VA officials took during the Subcommittee on Health and Hospitals oversight hearings on April 18, 1973. They testified that the pay increase of January 1973, in connection with the hospital and medical items would not have to be absorbed under the present budget request, but would be taken care of by transfer of sums from unearmarked funds contained for this purpose in the President's FY 1974 budget.

The history of recent pay raises, however, has been to the contrary. When such pay raises were granted in the past, funds specifically earmarked for additional staffing were used to pay for the pay raise. This occurred in both FY 1972 and 1973 with respect to $45,790,000 and $42,270,000, respectively, the full costs of the pay raises in those years. This resulted in a lessening of the VA's capability to provide quality care. We believe this should not happen again.

We thus believe it is imperative that this Committee make it very clear that the January 1973, pay increase, and any further pay raise which may take place in FY 1974, will not be absorbed from any other VA hospital and medical budget item, nor provided for by transfer of vital medical care funds or any other budget category funds within the VA requested appropriation.

4. Costs to Implement Senate-Passed S. 59

We would also like to bring to your attention the likelihood that S. 59, the Veterans Health Care Expansion Act of 1973, which passed the Senate on March 6, will become law in July. Final negotiations are underway to avoid a second veto of this vital legislation, and House Committee action is scheduled for this week.

This Act will improve the ability of the Veterans Administration to deliver quality medical care to its beneficiaries by removing certain legislative restrictions on the scope of treatment, particularly for ambulatory and nursing home care, and by expanding the coverage for eligible veterans and including as VA beneficiaries, for the first time, the very small number of dependents and survivors of totally and permanently disabled service connected veterans who are not covered by other Federal health benefit programs. The Act also makes a number of important improvements in the training and the personnel system of the Department of Medicine and Surgery as well as authorizing premium and differential pay for nurses.

The VA's estimates of the cost of these new authorities is $103.85 million for fiscal year 1974. Attached in the Appendix is a chart showing the breakdown of this amount for your information. We plan to follow up on enactment of S. 59 by urging the inclusion in the First Supplemental Appropriations Act for FY 1974 of the appropriate portion of this $104 million and ask that you acknowledge in your Committee report now that the Committee will look at the need for funding of new statutory authorities at this later date.

B. Research—None

C. Construction of hospital and domiciliary facilities

1. New Bronx VA Hospital

On page 25 of House Report No. 93-296, which accompanies H.R. 8825, under "Construction, Major Projects", the second sentence of the first paragraph directs the Veterans' Administration to "carefully reexamine the possibility and feasibility. . ." of the VA's taking over the St. Albans Naval Hospital scheduled to be closed by the Department of Navy, as an alternative to proceeding with the scheduled and partially funded $86 million construction of a replacement Bronx VA Hospital at the present Bronx site. Although we agree that this alternative might be economical and less disruptive to patient care, there are several other aspects of this situation that the Committee should also consider. Concerns about demography and lack of public low-cost transportation have been raised by veterans and veterans' groups in the New York area. These concerns, as well as those of economy and appropriate patient care, must be met.

The VA study must take fully into account patient distribution and the accessibility of alternative sites to public transportation. It is unclear, for example, that a VA Hospital at the St. Albans site, located in the Borough of Queens, New York, could serve the same population of veterans now utilizing the Bronx hospital, as well as other veterans for whom such a new location in Queens would result in improved access to VA services.

We thus urge that the Committee incorporate in its report a requirement that the VA in its study make a detailed comparative demographic study for the two sites and also assure that proper public transportation (or some kind of VA shuttle service) to and from St. Albans would be available to veterans and their families.

2. Loma Linda Hospital Bed Reduction

The VA budget shows a reduction in the new hospital at Loma Linda, California, from 700 to 600 beds and a deletion of $7.4 million for construction of this facility. It s not clear exactly what portion of those funds relate to the 100-bed reduction. It is very clear, however, that this reduction was purely the result of an O.M.B. dollars and cents decision and was proposed without any demographic study of the veterans who would be served in the San Bernardino/Riverside, California area.

At our April 18 hearing, tht VA agreed to undertake such a study in cooperation with the GAO.

Without an adequate survey of the veteran population and their need for VA medical care, it is inconceivable that OMB or the VA could have the slightest idea as to whether even the 700 beds originally proposed would be sufficient to meet the need. Certainly any decision to reduce bed capacity without benefit of such a study can only be viewed as totally arbitrary and capricious.

We, therefore, urge the Committee to instruct the VA very closely that no reduction in the beds proposed for Loma Linda is to be approved until such time as a full demographic study is submitted to the appropriate Committes of Congress to assure that the medical neeeds of the veteran population will be well served by the bed capacity, and ask that the cost of any bed reduction then proposed be fully explained.

3. Reduced fiscal year 1974 Funding of Construction Projects

In the budget request, O.M.B. deleted very substantial funds (approximately $65 million) for six major replacement and modernization projects (Bronx, N.Y.—$15.9 million; Columbia, S.C.—$5.2 million; Denver, Colo.—$11.7 million; Hines, Ill.—$3.76 million; Loma Linda, Calif.—$7.4 million; and W. Roxbury, Mass.—$21.7 million) and two major improvement projects (Brookyln, N.Y.—$1.9 million; and Wichita, Kans.—$1.4 million).

The VA explained these cuts at our April 18 hearing as attributable to a very careful assessment of exactly the amount of money which could actually be spent in FY 1974 and to a decision to hold down appropriations by funding construction projects only in appropriate spendable portions of the total cost. This may well be a valid explanation. We do not necessarily quarrel with the concept on its face. We do note, however, that there have already been enormous delays in getting underway at the Wadsworth West Los Angeles replacement hospital and feel strongly that this method of funding must not be used as a basis for foot-dragging or for an outright slowdown of the construction schedule for such urgently needed replacement facilities.

We, therefore, urge that you include in your report appropriate language to indicate that the Committee fully understands that the piece-meal funding of construction projects is not a true estimate of the total cost and that in approving any such funding the Committee in no way approves a slow down in implementation of approved projects; rather it expects that all projects begun will be completed as scheduled and that all appropriate funds to accomplish that result will be made available in subsequent budget requests for subsequent fiscal years.

Mr. Chairman, we have prepared a tabular summary of our recommendations for additional funding and Committee report language, which it attached.

SUMMARY OF RECOMMENDATIONS BY SENATOR ALAN CRANSTON, CHAIRMAN OF THE VETERANS' AFFAIRS SUBCOMMITTEE ON HEALTH AND HOSPITALS, AND BY SENATOR VANCE HARTKE, CHAIRMAN OF THE COMMITTEE ON VETERANS' AFFAIRS, FOR ADDITIONAL FUNDS FOR VETERANS' ADMINISTRATION FISCAL YEAR 1974, HOSPITAL AND MEDICAL APPROPRIATIONS IN H.R. 8825, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SPACE SCIENCE, VETERANS, AND CERTAIN OTHER INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1974

I. ADDITIONAL FUNDING

A. Medical care item

1. Support 82,000 ADPC (3,000 new staff)	$45,360,000
2. Activate closed wards (197 new staff at $12,579 each)	2,478,063

3. Increase nursing staffing (1,000 new positions, retain House increase) [1]	(14,350,000
4. Establish three new outpatient clinics:	
a. Los Angeles (in addition to funds for one reprogramed)	5,750,000
b. Sacramento	1,500,000
Subtotal for outpatient clinics	7,250,000
5. Implement pilot program to improve admission services (100,000 at 102 affiliated VA hospitals)	10,200,000
6. Provide emergency coverage to meet JCAH requirements	5,000,000
7. Specialized medical services:	
a. Establish four new and upgrade two existing Spinal cord injury home care programs	$544,000
b. Establish 10 new and upgrade four existing Alcohol dependence treatment units	2,100,000
c. Establish 15 new and upgrade 16 existing Hospital-based home care programs	1,273,000
d. Establish 12 new Pulmonary function labs	360,000
e. Establish 11 new and upgrade 17 existing Intensive care units	5,741,000
Subtotal for establishing 52 new and upgrading 39 existing specialized medical services units	10,078,000
Medical care total	80,366,063
B. Medical and prosthetic research item	
1. Provide increase for inflation	6,840,000
2. Meet animal research standards	1,535,000
3. Support seven new medical school affiliations ($150,000 each	1,000,000
Medical and prosthetic research total	9,375,000
C. Construction of hospital and domiciliary facilities item	
1. Complete all scheduled major and minor air-conditioning projects in eight VA hospitals	$10,138,000
2. Correct seismic defects in certain VA hospitals:	
a. (major)	1,000,000
b. (minor)	2,000,000
Subtotal for seismic defects	3,000,000
3. Acquire temporary facilities for new outpatient clinic in Sacramento	800,000
Construction total	13,938,000
Grand total [1]	103,679,963

[1] Not included in total or grand total since this amount has already been added by House action.

II. PROPOSED REPORT LANGUAGE

A. *Medical care item*

1. A discussion of the ADPC history and the need for the Office of Management and Budget to refrain from arbitrarily reducing it in the face of a demonstrated demand for hospital care. (See pages 22–24 of House Report No. 93–296 under "Medical Care".)

2. An expression of the Committee's understanding with respect to the non-absorption of the January 1, 1973 pay raise by the Veterans' Administration from existing appropriation items (Medical Care, MAMOE, Construction, and Research).

3. A direction to OMB to provide the VA with all necessary personnel ceiling positions to permit addition of the staffing required to implement funding recommendations.

4. Acknowledgment that the committee will consider at the time of the First Supplemental Appropriation bill the need for additional medical care funding to carry out the new statutory authorities to be added with enactment of S. 59—annual estimate $103.85 million.

B. Medical and prosthetic research—none

C. Construction of hospital and domiciliary facilities

1. Incorporation of language to insure that there will be no takeover by the VA of the St. Albans Naval Hospital in lieu of construction of a new Bronx VA Hospital at the present site until appropriate demographic and transportation studies have been completed and submitted to the appropriate congressional committees.

2. Incorporation of language to require the VA to submit a detailed demographic study prior to the approval of the reduction of 100 beds proposed in the budget with respect to the new Loma Linda Hospital (California) and of the reduction of the overall hospital cost by $7.4 million as suggested by the administration proposal.

3. Incorporation of language to indicate that the committee fully understands that the piece-meal funding of construction projects is not a true estimate of the total cost and that in approving any such funding the committee in no way approves a slow down in implementation of approved projects; rather it expects that all projects begun will be completed as scheduled and that all appropriate funds to accomplish that result will be made available in subsequent budget requests for subsequent fiscal years.

APPENDIX

I. (ITEM I.A.3)—NEED FOR VA NURSING STAFF INCREASE

(Excerpt from S. Rep. No. 93–54 on S. 59, pages 29–31)

VA staff-to-patient ratio survey

A survey conducted in 1971 by the VA (set forth in the Appendix) shows some of the wide variations that exist in staffing intensity between VA hospitals and community hospitals. The VA hospitals used in the survey ranged in size from 188 beds to 1,565 and contained 5,339 operating beds. The gross staffing ratios in VA hospitals ranged from 1.19 to 2.49 employees per operating bed. The overall ratio for the nine VA GM&S hospitals surveyed was 1.70 employees per operating bed. Since outpatient staffing could not accurately be separated from inpatient staffing in several of the hospitals, all statistics were included in the total.

The community hospitals ranged in size from 130 beds to 1,063. The eight community hospitals surveyed contained 3,678 operating beds. The gross staffing ratios in community hospitals ranged from 2.08 to 4.33 employees per operating bed. The overall ratio for the eight community hospitals was 3.23 employees per operating bed.

Overall, the community hospitals were staffed almost 2 to 1 over VA hospitals. The overall occupancy rate of the VA hospitals surveyed was 89 percent compared to 85 percent for the community hospitals. Percentagewise the VA utilizes almost three times as many volunteer and other nonpaid productive workers as the community hospitals. This amounted to 6½ percent of the paid VA hospital combined staffs as compared to 2½ percent of the paid community hospital combined staffs. When the unpaid personnel are added to the paid staff, the overall VA ratio rises from 1.70 to 1.81.

The community hospital ratio rises from 3.23 to 3.31.

Especially significant, the Committee believes, is a survey of nursing service statistics made in this study. It illustrate that community hopitals are staffed for nursing personnel on the average about twice as well numerically as VA hospitals. The cumulative averages showed VA hospitals have one nursing employee to every 1.8 beds while community hospitals in the survey have one nursing employee to every 1.0 bed. It is important to note that staffing of nursery, labor and delivery rooms in community hospitals was not included in these figures because VA hospitals do not have these services.

Moreover, the study showed that community hospitals have approximately twice as many registered nurses per bed as VA hospitals. It should be noted that special duty nurses in the community hospitals are hired *in addition* to basic nursing personnel, while in the VA hospitals the basic staff provides special duty nursing. Since the community hospitals covered by the survey did not keep statistics indicating the utilization of special duty nurses, which would cause an *increase* in their staff to patient ratios, the survey does not provide a totally accurate picture of staffing ratios.

The following tables from the survey show the three basic tours that all hospitals use. The statistics gathered show the average VA hospital nursing unit was 33 beds and the average community hospital nursing unit was 30 beds. For the total Nursing Service, personnel were assigned as follows:

TABLE II.—ALL NURSING PERSONNEL

[In percent]

	Day tour	Evening tour	Night tour
VA	64	20	16
Community	57	26	17

This table and the survey data show that the day tour was staffed almost 50 percent better per nursing unit in community hospitals than VA Hospitals. The evening tour in community hospitals was staffed twice as well as the VA hospitals, and the night tour was staffed a little less than twice as well in the community hospitals.

In the terms of numbers of nursing personnel, for the night shift the VA hospitals surveyed had an average 2.9 nursing personnel per unit in the hospitals surveyed for 7 day coverage. The community hospitals averaged 5.2 nursing personnel per unit.

Regarding the evening shift, the community hospitals used more of their staffs than did the VA hospitals, 26 percent versus 20 percent. By contrast, the VA staffed its day shift with a higher proportion of available staff than community hospitals—64 percent versus 57 percent. The night shift is about the same—VA 16 percent versus community 17 percent.

The following table shows registered nurses by shift; the percentages assigned to the three shifts are in the same approximate proportion as for all nursing personnel.

TABLE III.—REGISTERED NURSES

[In percent]

	Day tour	Evening tour	Night tour
VA	67	19	14
Community	58	24	18

The survey also showed that community hospitals are staffed nearly three times as well in X-ray units as VA hospitals. This is

in part attributable to the fact that community hospitals tend to use scheduled staff at night and on weekends rather than to use callback.

This study and the figures cited quite clearly demonstrate the types of startling staffing disparities which exist today between VA and community hospitals and which the staff-to-patient provision in the reported bill is designed to deal with.

II. (ITEM II.A.4)—FUTURE NEED FOR FUNDING NEW STATUTORY AUTHORITIES UPON ENACTMENT OF S. 59

(Excerpt from S. Rept. No. 93-54 on S. 59, page 38)

TABLE V.—SECTION-BY-SECTION COST CHART FOR S. 59, 93d CONG.

Section and provision	Fiscal year cost (in millions) 1974	1975	1976	1977	1978
TITLE I					
101. (a) Definition of "VA facility" changed to reflect long-standing interpretation	(1)	(1)	(1)	(1)	(1)
Contract care expanded to include wives, widows, and child	21.3	21.4	21.5	22.9	24.4
(b) Mental health services and training to certain dependents	10.0	10.5	11.0	11.5	12.0
(c) Home health services to veteran or dependent	(2)	(2)	(2)	(2)	(2)
102. Hospital or nursing home care for: Peacetime vets	7.9	8.5	9.0	9.7	10.4
Wives, widows and children	12.9	13.8	14.8	15.8	16.9
103. Outpatient care to obviate need for hospitalization	(1 3)	(1)	(1)	(1)	(1)
80 percent s/c/disabled	1.6	1.7	1.8	1.9	2.0
104. (a) Direct admission of military to community nursing home	(2)	(2)	(2)	(2)	(2)
(b) Nursing home care for dependents	(2)	(2)	(2)	(2)	(2)
(c) Nursing home standards	(2)	(2)	(2)	(2)	(2)
(d) Direct admission to community nursing home for s/c condition	4 11.2	12.7	13.5	13.9	14.2
105. U.S. vets nursing home care in Philippines	(1)	(1)	(1)	(1)	(1)
106. Earthquake—Reimbursement for loss of personal effects	(2)	(2)	(2)	(2)	(2)
107. Reimbursement for emergency medical care	(1)	(1)	(1)	(1)	(1)
108. Grants to Philippines	2.1	2.1	2.1	2.1	2.1
109. Sickle cell anemia	2.3	2.3	2.3	2.3	2.3
TITLE II					
201. Expansion of D.M. & S. Mission	(1)	(1)	(1)	(1)	(1)
Staff-patient ratio	(2)	(2)	(2)	(2)	(2)
202. 2 additional assistant CMD's	.089	.094	.099	.104	.110
Change titles of service heads	(1)	(1)	(1)	(1)	(1)
203. Salary rate D.M. & S. increase	.063	.606	.0074	.07	.780
salary range for service heads					
Nurse, premium pay	26.7	29.2	31.7	34.4	37.3
204. Personnel administration	(1)	(1)	(1)	(1)	(1)
205. Technical changes	(1)	(1)	(1)	(1)	(1)
206. Temporary full-time D.M. & S. appointments	(1)	(1)	(1)	(1)	(1)
Central administration of interns and residents	(1)	(1)	(1)	(1)	(1)
207. Malpractice protection for VA medical personnel	(1)	(1)	(1)	(1)	(1)
208. Clarification of authority to contract for scarce medical specialists	(1)	(1)	(1)	(1)	(1)
301. (a) Provide for 98,500 beds and 85,500 ADPC; maintain 82,000 ADPC and 8,000 nursing beds	(2)	(2)	(2)	(2)	(2)
(b) Construction standards for fire and earthquake	(2)	(2)	(2)	(2)	(2)
(c) Contribute to local governments for traffic controls and roads	(2)	(2)	(2)	(2)	(2)
302. Relinquishment of legislative jurisdiction	(1)	(1)	(1)	(1)	(1)
303. Expand sharing authority	(1)	(1)	(1)	(1)	(1)
401. VA Office in Manila		.975	.975	.975	.975
402. Telephones for nonmedical directors	.003	.003	.003	.003	.003
403. (a) Increase per diem rates to State homes	5.0	5.3	5.5	5.6	5.6
(b) Increase grants to State homes	2.7	2.7	2.7	2.7	2.7
Total (in millions)	$103.85	$111.3	$117.04	$123.95	$131.06

[1] No cost.
[2] No estimate.
[3] This estimate is based upon a plan of implementation whereby any costs could be absorbed mostly through a utilization of funds which would otherwise be needed for the obviated hospitalization.
[4] This estimate represents refined data indicating a substantial increase in new admissions over those anticipated from in VA-facility admissions.

Note.—Estimated 5-year total: $587.20.

FUNDING PUBLIC LAW 92-541 PROGRAMS

Mr. CRANSTON. Mr. President, the recommendations referred to in our June 25 letter with respect to funding for Public Law 92-541 were set forth in my June 20, 1973, letter to Chairman PROXMIRE along with substantial documentation produced at our April oversight hearings. I ask unanimous consent, Mr. President, that the text of this letter and the enclosure to it be set forth at this point in the RECORD.

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

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 20, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, HUD-Space, Science-Veterans Subcommittee, Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: I was very pleased that the Conference Committee on H.R. 7447, the Second Supplemental Appropriations Act for Fiscal Year 1973, agreed to include $20 million for the Veterans' Administration to begin implementation of P.L. 92-541, the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972. I am very grateful to you and to the other Senate Conferees for your efforts in successfully retaining this Senate provision in the conference report.

I am writing now to recommend that your Subcommittee include in its amendments to H.R. 8825, the Fiscal Year 1974 Department of Housing and Urban Development, Space, Science, Veterans and Certain Other Agencies Appropriations bill the sum of $55 million to carry out the provisions of P.L. 92-541. This sum, when added to the $20 million to be appropriated if the fiscal year 1973 Second Supplemental Act is enacted, would provide an appropriation over a two fiscal year period equal to the total amount authorized for a single year.

Of the $55 million I am recommending for inclusion in the Fiscal Year 1974 appropriations measure, I would recommend $10 million be made available to carry out subchapter I (Pilot Program for Assistance in the Establishment of New State Medical Schools) pursuant to section 5072 of title 38, and $45 million be made available to carry out the full chapter (including subchapter I) pursuant to section 5082 of title 38.

It is my understanding that the Veterans' Administration has completed the preparation of regulations governing administration of these authorities and that the publication of these regulations in the Federal Register will occur this Friday or Monday.

When I wrote you recommending the addition of $25 million to the Second Supplemental Appropriations Act for fiscal year 1973, for these purposes, I went into some detail on the demonstrated need for funding of these authorities. I attach a copy of my letter to you at that time, to reemphasize to you the extent of interest throughout the nation in implementing these authorities.

I plan to make further recommendations with regard to other Veterans Administration hospital and medical program items in a letter I will send separately.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals.

MAY 9, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, HUD-Space, Science-Veterans Subcommittee, Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in support of an amendment to the Second Supplemental Appropriations bill, FY 1973, in which I am joining with Senator Byrd of West Virginia to add $25 million to carry out the new chapter 82 (Assistance in Establishing New State Medical Schools; Grants to Affiliated Medical Schools; Assistance to Health Manpower Training Institutions) in title 38, as enacted in P.L. 92-541, the Veterans Administration Medical School Assistance and Health Manpower Training Act of 1972. Our amendment would fund only one-third of the $75 million FY 1973 authorizations, and under it, $15 million would be to carry out subchapter I (Pilot Program for Assistance in the Establishment of New State Medical Schools) pursuant to section 5072, and $10 million would be to carry out the full chapter (including subchapter I) pursuant to section 5082.

On April 16 and April 18, the Subcommittee on Health and Hospitals, which I am privileged to chair, of the Veterans Affairs Committee, held oversight hearings on the impact on Veterans Administration medical care of the revised FY 1973 and proposed FY 1974 budget requests and the failure to implement P.L. 92-541. At those hearings the Chief Medical Director of the Veterans Administration stated that the VA had received 62 inquiries about grants under the new chapter from health manpower and other institutions. Thirteen of these inquiries were regarding subchapter I (New State Medical Schools), 27 were regarding subchapter

II (Grants to Affiliated Medical Schools) (which also generally inquired regarding subchapter III), and 22 were regarding subchapter III (Assistance to Public and Nonprofit Institutions of Higher Learning, Hospitals and other Health Manpower Institutions Affiliated with the Veterans' Administration to Increase the Production of Professional and other Health Personnel). These inquiries covering the following 31 states are detailed in the enclosure: Alabama, Arizona, California, Connecticut, Georgia, Idaho, Illinois, Kansas, Kentucky, Maine, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

At the hearings, the VA indicated on April 18 that the regulations implementing the new law would be published in the Federal Register in 45 days—in other words, by the end of May.

The hearings also developed important support for the need to find the new Public Law. A number of outstanding leaders in the health education field testified to the importance of affiliations between the health professions schools and VA medical facilities in terms of the beneficial effect on the care provided the veteran as well as the impact on meeting national needs for additional health care personnel. A few quotes from some of these individuals eloquently express the benefits of such affiliations, and the effect of inadequate funding of these programs on the ability of these affiliations to achieve their full potential.

Dr. Dennis, Vice President for Health Sciences at the University of Arkansas Medical Center, said: "On the basis of information provided to us, our V.A.-Demas Committee Hospital can, with the projected budget for fiscal year 1974 (July 1973–June 1974), expect to be fortunate to maintain operations at the 1973 level yet the service demands will be greater. They can employ no more than the current number of house staff (residents and interns) at a time the medical school enrollments are increasing and the need for an additional ten resident positions are essential. Other deficiencies in the FY 1974 budget include (1) inability to obtain additional staffing that would permit employment ratios of staff to patients equivalent to that of the average private hospital, (2) inability to recruit additional professional and allied health personnel required to serve ever increasing demands, particularly in the outpatient areas, (3) inability to fund the new School of Health Related Professions in order to provide for the students, programs and facilities that would permit even a fraction of the tremendous growth potential in this short supply field of health manpower, and (4) indefinitely delayed are plans, meticulously generated over a period of several years, to activate an innovative, critically needed program for high quality geriatric medical care and a unique program of Geriatric Home Care. These programs were designed to provide the basis for a new medical school department for research and teaching in the field of aging. Neither institution can do this alone. The importance of the intolerable neglect of research, teaching and care for the aged requires no amplification."

Dr. Edmund Pellegrino, Vice President for Health Sciences and Director of the Health Sciences Center of the State University of New York concisely stated the importance of funding P.L. 92–541 to achieving up to date methods of providing quality care to veterans: "I would like to emphasize that my support for the specific provisions of S. 59 I have discussed and elements of 92–541 now awaiting funding is based on my conviction that they will improve the care of veterans and especially those veterans in the category for which we have the greatest moral responsibility as a nation. These measures if enacted and funded as the case may be—will bring certain aspects of medical care delivered to all veterans closer to optimal than is now the case. Surely, the veteran should not receive inferior care when a comprehensive pattern is available (to the non-veteran) in the community. But these measures will also enable the veterans hospitals to develop and provide improved methods of care. Thus, in selected areas of care, the veterans hospitals can take a role of leadership for the benefit of these they serve and all others, as well."

Dr. Schmidt, Vice President for Academic Affairs and Dean of the College of Medicine at the Upstate Medical Center, SUNY-Syracuse, seconded this statement saying: "The contributions of the Veterans Administration to health science education have been great and have been amply documented by others. Suffice it to state that a very large proportion of practicing health professionals in the United States have had portions of their education and training with Veterans hospitals. In turn, the partnership between the Veterans Hospitals and Academic Health Science Centers has materially benefited the veteran patient in terms of the quality of his care. Largely because of this partnership, patients in veterans hospitals have had available to them most of the skills and resources that modern scientific medicine and technology can offer. This partnership has not been free of stress or critics and there are admitted points of weakness. In my testimony, however, I would prefer to dwell on opportunities, especially as they concern the three major missions of patient care, education and research. These three are interdependent and no one of them can be of highest quality without each of the others."

And Dr. Stanley S. Bergen, Jr., President of the College of Medicine and Dentistry of New Jersey, gave examples of the benefits to the veteran resulting from an affiliation with New Jersey Medical School: "In return, the Veterans' Administration Hospital receives numerous advantages as a result of its participation with the medical school. Prior to its affiliation with the College the East Orange Hospital had no intensive care unit, no coronary care unit, no dialysis unit, nor any vascular caterization program. In large part these deficiencies were due to the difficulties experienced by the Hospital in attracting adequately trained staff. Furthermore, the hospital had difficulty attracting sufficient housestaff to meet its needs.

The affiliation with the medical school has substantially altered the picture. The assurance of faculty appointments and the stimulation involved through participation in a teaching environment has greatly enhanced the ability of the Veterans' Administration Hospital in East Orange to attract highly qualified and in some cases nationally known individuals to its staff. It has also been of great assistance in attracting housestaff.

Based on all the information available to the Subcommittee on Health and Hospitals, it is clear to me that (1) implementation of the new law can play a major role both in upgrading care to veterans and assisting the nation to meet its health manpower shortage; (2) there is great interest in the public and the health community and enormous capacity and untapped potential to carry out effective programs; and (3) the VA will finally—after more than 6 months—be issuing its regulations so that applications can begin to be submitted in June. It is important to stress that under sections 5072(b) and 5082(b) of title 38, sums appropriated for the new chapter 82 remain available until the end of the sixth fiscal year following the final year of appropriation.

Thus, this $25 million can get the program started and avoid the almost inevitable delay, under a continuing resolution for FY 1974, in starting up the program next fiscal year.

In closing, I wish to reiterate my conviction that the money is needed for these programs now and express my opinion that any expression to the contrary by the VA or the administration is dictated by OMB, which strenuously opposed enactment of P.L. 92–541, despite the facts involved. I very much hope you will support the amendment.

I have taken the liberty of sending copies of this letter and the enclosure to Senator Byrd and Chairman McClellan.

With best regards,

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals.

EXPRESSIONS OF INTEREST IN THE VETERANS' ADMINISTRATION MEDICAL SCHOOL ASSISTANCE AND HEALTH MANPOWER TRAINING ACT OF 1972—PUBLIC LAW 92–541

SUBCHAPTER I

There have been inquiries or statements of interest on behalf of 13 states (Attachment A). This number, and the still lesser number (about seven) which reflect potential immediate eligibility, is probably accounted for on two bases: The Act itself requires that the applicant present reasonable assurance of appropriate accreditation of the new medical schools to be initiated with this assistance (Section 5073b 1 D). Implementing regulations, as presently drafted, would also eliminate from eligibility under this subchapter the "new" schools which are provisionally accredited and receiving Federal assistance under one or more of the authorities contained in the Comprehensive Health Manpower Training Act of 1971 (PL 92–157) administered by the Bureau of Health Manpower, NIH, DHEW. Such schools, if they are presently affiliated with the VA hospitals, would be eligible for assistance under Subchapter II.

SUBCHAPTERS II AND III

There have been about 27 inquiries from Medical Schools specifically concerning *Subchapter II*, the majority of these also express interest in Subchapter III in behalf of nursing or other allied health programs conducted either by the School or by other Schools within the academic health center of which they are a part (Attachment B). There have been an additional 22 letters from institutions inquiring specifically about *Subchapter III* (Attachment C). These range from Schools of Allied Health, Schools of Pharmacy, etc. which are components of academic health centers to single programs conducted in community and junior colleges.

Most of these inquiries and statements of interest do not include specific proposals. Although the Act itself is rather explicit in defining eligibility, it is not all specific regarding the kinds of "projects and programs in furtherance of the purposes of the subchapter" (Section 5083 and 5093) for which grant assistance might be sought. Publication of regulations will undoubtedly elicit more detailed plans.

Letters, submitted directly and through Congressmen, generally express the need for additional clinical experience opportunities for medical students (Subchapter II) and other health professions and occupations students at all levels (Subchapter III), to complement the academic programs in medical schools, schools of nursing, dentistry, pharmacy, and other health-related fields which have been created or significantly expanded in response to recent Federal, State, or local funding initiatives.

General inquiries

There have been several expressions of general interest from health professions societies, organizations of health professions schools, and others; and inquiries on behalf of "otherwise eligible veterans" (Section 5070e) who are seeking or planning to seek

admission to medical schools (Attachment D).

SUBCHAPTER I

State, Institution or agency, and VA Hospital(s):

Alabama, University of Alabama, Troy State University, Tuscaloosa, Medical District No. 14.

Arizona, Navajo Health Authority, Medical District No. 34.

California, Charles R. Drew Postgraduate School of Medicine, San Joaquin Valley Health Consortium, San Fernando Valley Health Consortium, Sepulveda, Fresno, Medical District No. 36.

Georgia, Georgia State University, Atlanta.

Idaho, Medical Education Foundation, Inc., Boise.

Maine, University of Maine, Bangor, Togus.

Mississippi, Fifth Congressional District of Mississippi, Gulfport/Biloxi.

New Hampshire, University of New Hampshire, Manchester.

Ohio, Wright State University, Dayton.

South Carolina, University of South Carolina, Columbia.

Tennessee, East Tennessee State University, Mountain Home.

Texas, Texas A&M University System, Texas College & University System, Temple/Waco/Marlin, Medical District No. 26.

West Virginia, Marshall University, Huntington.

SUBCHAPTER II

State, Institution or agency:

Alabama, University of Alabama in Birmingham University of South Carolina—Mobile.

California, Stanford University Medical Center.

Kansas, Wichita State University, College of Health Related Professions.

Kentucky, University of Kentucky Medical Center.

Louisiana, Louisiana State University Medical Center.

Massachusetts, Boston University, Tufts University School of Medicine.

Michigan, University of Michigan School of Medicine.

Mississippi, University of Mississippi Medical Center.

Nevada, University of Nevada School of Medical Sciences.

New York, Mt. Sinai Medical Center, S.U.N.Y at Stonybrook.

North Carolina, University of North Carolina School of Medicine.

North Dakota, University of North Dakota School of Medicine.

Oklahoma, University of Oklahoma Medical Center.

Oregon, University of Oregon Medical Center.

Rhode Island, Brown University Division of Biological and Medical Sciences.

South Carolina, Medical University of South Carolina.

South Dakota, University of South Dakota School of Medicine.

Tennessee, University of Tennessee Medical Units.

Texas, University of Texas Southwestern Medical School at Dallas; Baylor College of Medicine; Texas College & University System (all campuses); Texas Tech. University School of Medicine.

Virginia, Eastern Virginia Medical School.

Wisconsin, University of Wisconsin (Madison) Medical College of Wisconsin.

SUBCHAPTER III

State, Institution or Agency:

Alabama, Tuskegee Health Education Center.

California, East Bay Area Health Education Center, De Anza Community College, San Joaquin Valley Health Consortium (Fresno Area Health Education Center).

Connecticut, Western Connecticut State College.

Georgia, Georgia State University.

Illinois, University of Illinois at the Medical Center, School of Allied Health Professions.

Michigan, Saginaw Valley College—Saginaw Area Health Education Center.

Missouri, Central Missouri State College.

Nebraska, University of Nebraska—Lincoln Area Health Education Center.

New York, Consortium of Health and Educational Institutions—Bath, New York, S.U.N.Y.—Downstate Medical Center.

New Mexico, University of Albuquerque.

North Carolina, Duke University Medical Center—Division of Allied Health., Western Carolina University.

Ohio, Wright State University.

GENERAL INQUIRIES

LOCAL ORGANIZATIONS AND GROUPS

Arkansas, Arkansas State Medical Society, a practicing physician.

Maine, Maine's Regional Medical Program.

New York, 29th District of New York (Congressman Stratton), Albany/Schenectady area.

Ohio, "Interested citizens of Ross County" (Chillicothe area).

ASSOCIATIONS AND SOCIETIES

Association of American Medical Colleges, Association of Schools of Allied Health, American Medical Association—Council on Medical Education, American Podiatric Association, American Optometric Association, Association of Colleges of Pharmacy.

LETTERS IN BEHALF OF POTENTIAL STUDENTS

Senator Jacob Javits, Senator James Buckley, Senator Bob Packwood, Congressman Olin Teague.

State, *Institution or Agency:*

Pennsylvania, St. Francis College, Altoona Lakes Area Health Education Center.

Tennessee, Vanderbilt University School of Allied Health Professions.

Texas, St. Joseph's Hospital, Houston, Central Texas Regional Medical Education Foundation (Temple Junior College).

Utah, Weber State College.

Washington, City of Seattle—Schools and Colleges.

Mr. CRANSTON. Mr. President, I believe that these materials amply illustrate the substantial value for veterans' health care of providing funds to carry out the new public law—for which the VA's regulations have just been issued—and thereby utilize the great potential of VA hospitals as clinical facilities for the training and education of physicians, dentists, nurses, and other health care personnel. These materials also make abundantly clear the enormous interest throughout the country in providing this funding. Through the end of February of this year the VA received more than 40 expressions of interest from State governments, medical schools, nursing and allied health schools, universities, and other health manpower training institutions about utilizing the new authorities in that public law, to establish new medical schools using VA clinical facilities or to expand the education and training capacities of medical and other schools affiliated with existing VA health facilities.

CASE HISTORIES OF VA HOSPITAL REJECTIONS

Mr. President, I have received a copy of a June 27, 1973, letter to Chairman PROXMIRE from Mr. Francis W. Stover, national legislative service director of the Veterans of Foreign Wars, endorsing our appropriations recommendations. This letter included most disturbing case histories of 15 veterans who applied for VA hospitalization, and were rejected and subsequently had to receive private medical care for the condition for which they were seeking VA hospitalization. It is extremely shocking to note that in 8 of these 15 cases the veteran died shortly after having been rejected by the VA hospital to which he had applied.

This is a grievous and absolutely inexcusable situation, Mr. President, and in order to let all Senators see these very, very sad examples—which I might add are only a small portion of those being uncovered by a joint on-going survey by the Veterans' Affairs Committees in both Houses—I ask unanimous consent that the text of Mr. Stover's letter and the enclosure in question be set forth in the RECORD at this point.

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

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Washington, D.C., June 27, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, Housing and Urban Development, Space, Science, and Veterans, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is to indicate the support of H.R. 8825 as it relates to the appropriation for the Veterans' Administration for fiscal year 1974 as approved by the House and scheduled for consideration by your Subcommittee this date.

It will be recalled that in testimony before your Subcommittee the Veterans of Foreign Wars further charges that Veterans' Administration spokesmen, speaking for the Office of Management and Budget, has been providing misleading information regarding veterans' hospitals and other programs calculated to provide the erroneous impression that all is well in the Veterans' Administration.

The Veterans of Foreign Wars has conducted its own survey among its members and it is no surprise we have learned that hundreds of veterans have had the door slammed in their face when seeking VA hospital care or when discharged prematurely, according to the best medical opinion.

Enclosed is a representative list of cases which proves our charges in this regard and is in support of action by Congress to increase the VA appropriation for 1974.

This date the recommendations of Senator Hartke, Chairman of the Senate Committee on Veterans' Affairs, and Senator Cranston, Chairman of its Subcommittee on Health and Hospitals, have come to our attention. The V.F.W. associates itself with the recommendations of Senators Hartke and Cranston and submits to you and your Subcommittee that evidence obtained by Senator Cranston's Subcommittee is overwhelming proof that the VA is not requesting the amount of funds it needs to carry out its mission of caring for veterans and their dependents.

Accordingly, the V.F.W. supports the House approved VA appropriation bill with its additional funds for veterans medical care; further, the V.F.W. agrees with the thrust of Senator Hartke's and Senator Cranston's recommendation, particularly as it relates to the need to provide a minimum level of care of 82,000 average daily patient census in VA hospitals. The V.F.W. also associates itself with additional funds needed for research in VA hospitals, which programs are most important in attracting and retaining highly qualified doctors and other medical personnel who will contribute to better care for vet-

erans, but most important make a contribution to better health for all citizens.

Lastly, the V.F.W. has supported a stand by Selective Service System on the same basis that we need fire departments in our communities. One never knows what the future holds. A copy of the V.F.W. support of the appropriation for the stand by Selective Service System is also enclosed.

Your favorable consideration of these views and recommendations of the Veterans of Foreign Wars will be deeply appreciated.

With kind personal regards, I am

Sincerely,

FRANCIS W. STOVER,
Director,
National Legislative Service.

LIST OF CASES

(1) Veteran was paralyzed October 16, 1972—applied VA Hospital, Lebanon, Pennsylvania—denied hospitalization or treatment—presently planning to be examined by Dr. ———, Neurosurgeon at Duke University, North Carolina on May 13, 1973.

(2) Veteran was prematurely discharged from VA Hospital with cancer and no one to take care of him—died within two weeks after discharge from hospital.

(3) Veteran was denied admission at VA Hospital, Philadelphia. Rushed to Hahnaman Hospital with cancer of the stomach.

(4) Veteran applied for hospitalization at Jefferson Barracks on April 16, 1973 at 8:40 a.m. and was rejected. Veteran went home and died the same night.

(5) Veteran was hospitalized at Hines VA Hospital, February 28, 1973. Service connected amputee, right leg and lower back condition. Veteran given examination, EKG, X-rays, blood tests. He was advised that he could not have surgery performed during his hospitalization of February 1973 and was discharged from Hines on March 8, 1973 and told to report in two weeks. Upon his return home, the veteran contacted his personal physician, Dr. ——— and was admitted to St. Mary's Hospital, Decatur, Illinois on March 8, 1973. Dr. ——— performed surgery on March 16, 1973 to remove lump on the veteran's right leg (service connected). The veteran's original 10–10 for Hines was for a cyst on his right leg.

(6) Veteran had respiratory problem—applied at VA Hospital, Columbia, Missouri—rejected June 17, 1972—family contacted V.F.W.—admitted to Still Hospital, Jefferson City, Missouri—transferred to VA Hospital, Jefferson Barracks, Missouri—died.

(7) Veteran was having difficulty standing and walking, appeared to be partially paralyzed—VA Hospital, Biloxi, Mississippi rejected on April 9, 1973—relative carried him home. Veteran continued to get worse, experiencing reduced ability to move. On April 10, 1973, relatives carried veteran to LMD (Dr. ———, in Gulfport, Mississippi). LMD would not call VA Hospital due to many previous experiences (run-a-rounds) he had received from VA Hospital. LMD was to admit veteran to Gulfport Memorial Hospital on the afternoon of April 11, 1973. Relatives found veteran much worse approximately midday on April 11, 1973. Ambulance was called and veteran rushed to Gulfport Memorial Hospital—Dead on Arrival.

(8) Veteran applied to VA Hospital, Hines, Chicago, Illinois. Examined in corridor of the hospital and denied admission. Immediately taken to Chicago County Hospital and died one half hour after arrival at County Hospital.

(9) Veteran had chronic emphysema. He arrived at the admissions area of the Syracuse VA Hospital on April 14, 1972 because of increase in symptoms of shortness of breath. Consultant felt that there was no acute changes present which required hospital care. At home the veteran had available to him a respirator and oxygen administering devices and he was instructed to use these. He was further instructed to return to the hospital if the condition should further deteriorate. Veteran lived at Y.M.C.A. in Auburn, New York and had to climb three flights of stairs where this equipment was set up. The next morning, April 15, 1972 the veteran was found dead. Veteran expired due to acute coronary occlusion. Contributory cause was emphysema.

(10) Veteran applied for hospitalization at VA Hospital, Nashville, Tennessee, January 7, 1973 and was rejected. VA scheduled him to come back. Veteran was again rejected on January 17, 1973 and the veteran's private physician had him admitted to Baptist Hospital in Nashville, Tennessee on January 18, 1973. X-rays determined that he had cancer of his right lung. When the private physician requested the x-rays that were made at the VA Hospital and compared them with the x-rays taken at the Baptist Hospital, the VA's x-rays indicated a cancerous condition. The veteran presently is on cobalt treatment.

(11) Veteran came to the admitting office and made application for hospitalization. His wife accompanied him to the VA Hospital. The veteran was complaining and wanted treatment for a heart condition. He was examined by the outpatient doctor. No cardiogram or any other tests were conducted on this man and he was refused admittance to the hospital. The doctor's report shows that this man's age was 75, with general senility and arterioscelerosis. On March 29, 1973, I believe at his home, the veteran suffered a severe heart attack and was rushed to the local hospital, St. Johns, by ambulance where he was pronounced dead on arrival. On March 27, 1973, the date he sought admittance to the VA Hospital, there were 171 patients in this hospital and there were 53 vacant beds.

(1) Veteran was admitted to the Lake Region Hospital, Fergus Falls, Minnesota, on March 11, 1973 for a relapse of pancreatis. On the following morning he requested that he be transferred to the VA Hospital at Fargo, North Dakota, as he had no hospital insurance to pay for his local hospital bill. He was informed that he could not come in on March 12 but could be admitted on March 13. "My intravenus tubes were removed and my IV needle was plugged and taped so that the VA Hospital could hook me up to the same needle. At 10 o'clock in the morning of the 13th a friend brought him to the VA Hospital in Fargo where he arrived at approximately 11 o'clock in the morning. At that time he turned over the papers from his doctors at the Fergus Falls Hospital. "At that time I thought I would be taken to a room where my IV would be hooked up immediately. Instead I was told to please take a seat where I waited approximately 2½ hours before I was able to see a doctor. When I saw the doctor, he read through my paper work made some notes, after which he had me lay down and he pressed on my abdominal area. He asked me how I felt and I told him I felt alright in most areas but a little tender in one place. He asked me how I felt otherwise at which time I answered I was feeling O.K. The doctor felt I did not need any further hospitalization and they were thoroughly crowded and had other patients needing the beds more than I did at the present time. He also stated that if I should have further trouble I could always return. The following day I had severe abdominal pains at which time I went to St. Lukes Hospital in Fargo where I already had had gall bladder x-rays and a checkup by a doctor familiar with pancreatis. I also did not go to the VA Hospital again because I did not want to run into the risk of having to wait due to the pain. I went to St. Lukes Hospital on the 14th of March and remained there until the 5th of April, approximately 22 days. I had surgery on Monday the 26th of March. The surgery was to drain a cyst approximately 7000 cc in size, into my stomach. The cyst was displacing my stomach and blocking or partially blocking a duct." The veteran now has a bill from the Fargo Clinic for $732.50. He also has a bill from the St. Lukes Hospital, Fargo for $33.13. There were 48 vacant beds at the VA Hospital on March 13, 1973.

(13) Veteran applied for hospitalization at VA Hospital, Palo Alto on March 27, 1973—had bronchial pneumonia. He had already set up an appointment and arrived at Palo Alto at ten minutes to 2 p.m. After considerable difficulty breathing and waiting all afternoon, still did not receive any care from the doctors and nurses and at 5:20 he was taken to Eden Hospital in Castro Valley where the specialists worked on the veteran for three hours trying to assist him and he finally died at 5:30 p.m., March 28, 1973. Cause of death—heart failure caused by bronchial pneumonia, "neglected".

(14) Veteran applied for hospitalization at VA Hospital, Atlanta, Georgia, September 1972, as a sliver of metal penetrated the right eye. The eye specialist operated on his eye, bandaged and sent him home. After two days of considerable pain, day and night, he returned on Sunday morning. The admitting officer advised him that there was nothing that could be accomplished and for him to go home. He also advised the veteran that he could not give him anything to relieve the pain to assist in sleeping. After the rejection at the VA Hospital, the veteran went to the Atlanta Eye Hospital where the sliver of metal was removed from his eye. He was operated on at the Atlanta Hospital and the metal had already caused an infection. Considerable expense was involved at the civilian hospital.

(15) Veteran applied for hospitalization on October 26, 1972 at Iowa City, Iowa and was given medication after examination. His complaints were muscular soreness, abdominal pain and arthritis and was rejected for hospitalization. Veteran went to private hospital, St. Francis, Peoria, Illinois where gall bladder was removed, surgery performed on upper colon and he faces further surgery for the repair of nerves and arteries in the shoulders.

OMB–HEW ANTI-VA AXIS

Mr. CRANSTON. Mr. President, the need for strong appropriations action to insure the continuation of quality medical care for veterans has never been greater. The administration has apparently set upon a course of severely retrenching the VA hospital system and of selling or transferring to local communities many of the VA hospital properties and facilities.

HEW DECISION REGARDING FUTURE OF VA HOSPITAL SYSTEM

On May 22, at page 16460, the distinguished Senator from Massachusetts (Mr. KENNEDY), chairman of the Subcommittee on Health of the Labor and Public Welfare Committee, inserted into the RECORD two memorandums with respect to national health insurance and the decisions of Secretary of the Department of Health, Education, and Welfare with regard to certain action recommendations made to him. Senator KENNEDY has done us all a great service by making this enormously interesting material available for public scrutiny and analysis.

This material reveals that on April 23, Secretary Weinberger—who it must be remembered was then serving as Special Counselor to the President for Human Resources, with responsibility with respect to the Veterans' Administration—approved proceeding to analyze immediately the "restructuring of VA medical programs."

The restructuring recommended to him in an April 16, 1973, memorandum from Mr. Stuart H. Altman, Deputy Assistant Secretary for Planning and Evaluation/Health, was as follows:

D. VETERANS' ADMINISTRATION (VA) MEDICAL PROGRAMS

The VA operates its own system of 169 hospitals and other facilities. VA outlays for medical programs are budgeted at $2.4 billion in 1974. VA patients fall into two categories: (1) veterans with service-connected disability [*sic*] and (2) low income veterans without service-connected disabilities, who receive services on a space available basis. Some 64% of hospitalized VA patients fall in the second category. When NHI becomes a reality, particularly if universal entitlement is achieved, a strong argument can be made for restricting special VA medical programs to veterans with service-connected disabilities, since other veterans would be covered under general programs. The estimated budget savings of such a change would be over $1 billion annually.

In addition, those who do have service-connected disabilities could be covered under VA-issued health insurance programs rather than [be] eligible for treatment only in VA facilities. VA hospital properties could be sold to the private sector, transferred to local communities, or used for other governmental purposes.

I wish to note parenthetically, Mr. President, that the second paragraph from this quotation was inadvertently omitted from the material previously printed in the RECORD at Senator KENNEDY'S request.

CRISIS IS AT HAND

So, Mr. President, the crisis is now. The long-feared OMB–HEW conspiracy to do in the Veterans' Administration is upon us. It is all too real. It is the product of no one's fantasies, vivid imagination, or even, as some have suggested, veterans organization-inspired paranoia.

It is there in black and white for all to read and all to understand. I trust that my colleagues in the Senate and on the Committee on Appropriations will want to provide a resounding answer to this VA death sentence apparently about to be decreed by the administration.

TANGIBLE ACTION TO CARRY OUT VA HOSPITAL DEATH SENTENCE

Mr. President, if OMB succeeds in its effort, set forth in the fiscal year 1974 budget request, to arbitrarily reduce the VA hospital patient census down to 80,000 from the most recent level of approximately 82,500 at present, the downward trend and the steady erosion of the VA hospital system may well be irreversible. In my view this would be an enormous tragedy both in terms of meeting our obligation to care for those who have served our Nation in times of national emergency, and in terms of wasting, and inviting the dissipation of a highly cost-effective national medical care resource, which performs an indispensable role in the total provision of health care in America.

CONCLUSION

The best way to put a stop to this OMB–HEW treachery, Mr. President. would be to add the necessary funds to insure that the VA medical and hospital system remains independent, strong, modern, and vibrant and continues to provide quality medical care for sick and disabled men and women—young and old—who have sacrificed years, limbs, good health, and job opportunities in the service of their Nation.

Mr. President, I feel extraordinarily deeply about the need to continue the efforts we have been making to insure quality care for our returning Indochina veterans, who, as I have indicated, are our most seriously disabled veterans and are comprising a continually growing proportion of VA patients, as well as for our disabled veterans from prior wars.

In the past, the members of the Appropriations Committee have proven themselves second to none in supporting quality health care for veterans, and it has not been necessary to propose increases in the basic VA appropriations through floor amendments. I very much hope we can continue this spirit of dedication and cooperation, and that the Appropriations Committee will act favorably on our recommendations when it meets to consider H.R. 8825, which may be scheduled for full committee markup as early as this Friday, June 29.

ADDITIONAL ROUTINE MORNING BUSINESS

The additional routine morning business transacted later in the day is printed at this point in the RECORD by unanimous consent.

ADDITIONAL REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 11. A bill to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma (Rept. No. 93–268).

By Mr. RANDOLPH (for Mr. CLARK), from the Committee on Public Works, with an amendment:

S. 1776. A bill to amend the Federal Water Pollution Control Act, as amended (Rept. No. 93–269).

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

S.J. Res. 129. An original joint resolution to provide for a temporary extension of the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, and for other purposes (Rept. No. 93–267), together with minority views. Placed on the calendar.

By Mr. PELL, from the Committee on Foreign Relations, with amendments:

S. Res. 71. A resolution expressing the sense of the Senate that the U.S. Government should seek the agreement of other governments to a proposed treaty prohibiting the use of any environmental or geophysical modification activity as a weapon of war, or the carrying out of any research or experimentation directed thereto (Rept. No. 93–270).

By Mr. PELL, from the Committee on Labor and Public Welfare and the Committee on Commerce jointly, with an amendment:

H.R. 5452. An act to extend and make technical corrections to the National Sea Grant College and Program Act of 1966, as amended (Rept. No. 93–271).

ADDITIONAL INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, or reported, read the first time and, by unanimous consent, the second time, and referred or placed on the calendar as indicated:

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

S. 2089. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2090. A bill to amend the Federal Aviation Act of 1958 so as to specifically provide that remedial orders issued by the Civil Aeronautics Board in enforcement proceedings may require the repayment of charges in excess of those in lawfully filed tariffs. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2091. A bill to amend the Federal Aviation Act of 1958 so as to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings. Referred to the Committee on Commerce.

By Mr. MAGNUSON:

S. 2092. A bill to authorize a compact between the several States relating to taxation of multistate taxpayers and to regulate and foster commerce among the States by providing a system for the taxation of interstate commerce. Referred to the Committee on Finance.

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

S. 2093. A bill to amend the Horse Protection Act of 1970 to better effectuate its purposes. Referred to the Committee on Commerce.

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

S.J. Res. 129. An original joint resolution to provide for a temporary extension of the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, and for other purposes. Placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2090. A bill to amend the Federal Aviation Act of 1958 so as to specifically provide that remedial orders issued by the Civil Aeronautics Board in enforcement proceedings may require the repayment of charges in excess of those in lawfully filed tariffs. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Federal Aviation Act of 1958 so as to specifically provide that remedial orders issued by the Civil Aeronautics Board in enforcement proceedings may require the repayment of charges in excess of those in lawfully filed tariffs, and ask unanimous consent that the letter of transmittal and statement of purpose and need be printed in the RECORD with the text of the bill.

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

S. 2090

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress asembled, That section 1002(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(c)) is amended to read as follows:

"(c) If the Administrator or the Board finds, after notice and hearing, in any investigation instituted upon complaint or upon their own initiative, with respect to matters within their jursidiction, that any person has failed to comply with any provision of this Act or any requirement established pursuant thereto, the Administrator or the Board shall issue an appropriate order to compel such person to comply therewith, including an order directing restitution for compensation collected for air transportation, or for any service in connection therewith, which is greater than the rates, fares and charges applicable thereto under tariffs lawfully on file with the Board.".

SEC. 2. Section 1007(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1487(a)) is amended to read as follows:

"(a) If any person violates any provision of this Act, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit issued under this Act, the Board or Administrator, as the case may be, their duly authorized agents, or, in the case of a violation of section 401(a) of this Act or an order directing a person to make restitution for compensation collected for air transportation which is greater than the rates, fares, and charges applicable thereto under tariffs lawfully on file with the Board, any party in interest may apply to the district court of the United States, for any district wherein such person carries on his business or wherein the violation occurred, for the enforcement of such provision of this Act, or of such rule, regulation, requirement, order, term, condition, or limitation; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining such person, his officers, agents, employees and representatives, from further violation of such provision of this Act or of such rule, regulation, requirement, order, term, condition or limitation, and requiring their obedience thereto".

STATEMENT OF PURPOSE

Under the Federal Aviation Act, the Board has discretion to act on complaints against violations of the Act, including complaints that carriers have collected charges in excess of those contained in effective tariffs. The Act empowers the Board to issue orders requiring air carriers to cease and desist from exacting such overcharges. However, the Act does not in terms authorize the Board also to order the carrier to repay the overcharges. The Board requires, therefore, as an incident to the issuance of cease and desist orders and for purposes of granting full relief, the authority to order restitution where charges are in excess of tariff ones.

The bill is not designed to establish the Board as a forum for adjudicating private claims for overcharges. Rather, the Board would retain its present discretionary authority as to whether it should entertain a complaint or leave the complainant to its judicial remedies. However, where the Board has held hearings on a complaint, and has found that tariff violations have occurred, the Board should be empowered to provide full relief by directing the repayment of any overcharges. For example, such authority is particularly desirable in light of the greatly expanded scope of group travel activities. In the case of group travel, relatively slight overcharges with respect to individual passengers may not justify individual court suits by each passenger; but the aggregate amount involved may constitute a sizable sum which would constitute unjust enrichment to the carrier if retained by it. It should be emphasized that the bill does not result in the granting of reparations authority beyond that necessary to provide full relief to passengers and shippers by requiring air carriers to refund charges in excess of lawfully filed tariffs.

The bill amends section 1002(c) of the Act, relating to the entry of compliance orders, and section 1007(a), relating to judicial enforcement of Board orders, in implementation of the proposal.

CIVIL AERONAUTICS BOARD,
Washington, D.C., April 17, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Civil Aeronautics Board recommends to the Congress for its consideration the enclosed draft of a proposed bill "To amend the Federal Aviation Act of 1958 so as to specifically provide that remedial orders issued by the Civil Aeronautics Board in enforcement proceedings may require the repayment of charges in excess of those in lawfully filed tariffs."

The Board has been advised by the Office of Management and Budget that there is no objection to the transmission of the draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

ROBERT D. TIMM,
Chairman.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2091. A bill to amend the Federal Aviation Act of 1958 so as to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Federal Aviation Act of 1958 so as to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings, and ask unanimous consent that the letter of transmittal and statement of purpose and need be printed in the RECORD with the text of the bill.

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

S. 2091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 401(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by:

(1) Amending the heading of such section to read as follows: "NOTICE OF APPLICATION; CONTEMPORANEOUS CONSIDERATION"; and

(2) Inserting "(1)" immediately after "(c)" and by adding at the end thereof the following new paragraph:

"(2) Contemporaneous consideration of applications may, in the Board's discretion, be afforded by assigning applications for consolidated hearings and decisions or by assigning such applications for separate hearings followed by simultaneous decision: *Provided,* That applicants excluded from a particular hearing are allowed to participate therein as intervenors, adduce evidence, and cross-examine adverse witnesses: *Provided further,* That contemporaneous consideration is not required in a proceeding for the consideration for a particular type of service within a defined area or over a described route segment where applications (or portions of applications) not proposing service of such type within such area or over such segment are excluded by the Board and new authorizations granted in such proceeding provide for a mandatory stop at any point marking the boundary of the defined area or common to any application (or portion thereof) which is excluded. Direction or refusal by the Board to consolidate any application for hearing with any other application, or otherwise to provide contemporaneous consideration thereof, shall not be subject to review prior to the issuance of an order granting such other application in whole or in part. The Board shall not be required to hold, prior to a hearing on any application, a preliminary hearing on the question of whether any other application filed pursuant to this section should be heard together with the application noticed for hearing, or whether such other application should otherwise be afforded contemporaneous consideration. The burden of establishing that applications should be consolidated for hearing or given contemporaneous consideration shall be on the person making request therefor. As used in this subsection, the term 'application' shall include an investigation instituted by the Board upon petition or complaint or upon its own initiative to alter, amend, modify or suspend a certificate pursuant to section 401(g)."

SEC. 2. Section 1006(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1486) is amended by adding at the end thereof a sentence reading as follows: "Orders of the Board directing or refusing consolidation or contemporaneous consideration of applications filed under section 401 of this Act shall be subject to review only at the time prescribed in section 401(a)(2) of this Act".

SEC. 3. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading "Sec. 401. Certificate of public convenience and necessity." is amended by striking out "(c) Notice of Application." and inserting in lieu thereof "(c) Notice of application; contemporaneous consideration.".

CIVIL AERONAUTICS BOARD,
Washington, D.C., April 17, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Civil Aeronautics Board recommends to the Congress for its consideration the enclosed draft of a proposed bill "To amend the Federal Aviation Act of 1958 so as to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings."

The Board has been advised by the Office of Management and Budget that there is no objection to the transmission of the draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

ROBERT D. TIMM, *Chairman.*

Enclosure.

STATEMENT OF PURPOSE AND NEED FOR A DRAFT BILL TO AMEND THE FEDERAL AVIATION ACT OF 1958 SO AS TO CLARIFY THE POWERS OF THE CIVIL AERONAUTICS BOARD IN RESPECT OF CONSOLIDATION OF CERTAIN PROCEEDINGS

One of the most persistent problems the Board has encountered, particularly in large area route proceedings, has been the contention of applicants at the consolidation stage, based on the doctrine of *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327 (1945), that they are entitled as a matter of legal right to consolidation of particular applications. Such an applicant usually asserts that the grant of an application which the Board proposes to hear will preclude a subsequent grant of its own application, and that the Board therefore must also hear its application in the proceeding and accord it comparative consideration.

In many instances in the past, a refusal by the Board to consolidate has resulted in an appeal to the courts from the consolidation order, with a request that the court stay further procedural steps in the Board proceeding pending disposition of the petition for review. The bill is designed, among other things, to resolve these problems.

This matter has been the subject of consideration and recommendation by the Administrative and Judicial Conferences of the United States. In its 1962 final report (Recommendation No. 20), the Administrative Conference recommended that the Federal Aviation Act be amended. First, the Administrative Conference recommended that the Board should be allowed to give contemporaneous consideration of applications, when required, by assigning various of the applications for separate evidentiary hearings and then consolidating them for simultaneous decision by the Board. This recommendation was made subject to the condition that applicants excluded from a particular hearing should be allowed to participate therein as intervenors, adduce evidence, and cross-examine adverse witnesses. Second, the Administrative Conference recommended that when the Board considers applications for service within a defined area or over a described route segment, the Board is not required to consolidate certain applications if it provides that new service must make a mandatory stop at a point marking the boundary of the defined area or common to the excluded applications. Lastly, the Administrative Conference recommended that the Board should not be required to hold a preliminary hearing on the issue of consolidating applications. Subsequently, the Judicial Conference of the United States also endorsed the recommendation of the Administrative Conference (see Report of the Proceedings of the Judicial Conference of the United States, September 22–23, 1965 (H. Doc. No. 356, 89th Cong., 2d Sess., p. 68)).

The legislation amends section 401(c) of the Federal Aviation Act of 1958, relating to certificate proceedings, so as to reflect in substance these recommendations of the Administrative and Judicial Conferences, and makes a technical amendment to section 1006 (a) of the Act, relating to judicial review of Board orders.

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

S. 2093. A bill to amend the Horse Protection Act of 1970 to better effectuate its purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, today I am introducing for myself and Mr. TUNNEY a bill to amend the Horse Protection Act of 1970 to facilitate enforcement of that act and to put an end to the cruel practice of soring horses.

When we passed the Horse Protection Act of 1970, it was intended to stop, once and for all, the inhumane and absolutely unnecessary practice of soring Tennessee Walking Horses to effect their natural gait. After extensive investigation and oversight hearings by the Senate Commerce Committee which were chaired by Senator TUNNEY, I was very disturbed to learn that our legislative action did not provide a final solution. Further legislation will be necessary to stimulate the administration action originally mandated by Congress.

At the Commerce Committee hearings, expert witnesses testified that the practice of soring continues on a widespread scale despite the fact that it has been illegal for over 2 years. As a strong supporter of the earlier legislation, I was shocked when Senator TUNNEY described to me deficiencies in the U.S. Department of Agricultures' administration of the act. Thousands of sored horses now move in interstate commerce, ironically often to appear in charitable benefit shows. But since the passage of the act over 2 years ago, not one criminal conviction nor one civil penalty has resulted from the enforcement efforts of the Department of Agriculture.

In fact, even the rules and regulations from posing civil penalties were not adopted by the USDA until after the Commerce Committee scheduled hearings to investigate the agency's lack of enforcement effort.

While we are convinced that the purposes of this act could have been realized under the Horse Protection Act of 1970, we also realize that act contains certain deficiencies which made enforcement efforts more difficult than necessary. Therefore, the bill I am introducing today is intended to increase the enforcement powers of the Department of Agriculture to make it more likely that individuals who persist in the cruel practice of soring will be brought to justice.

I hope that this bill, when enacted, will put a stop to amateur and commercial soring of the Tennessee Walking Horse. This mutilation of animals to enterain man's violent sensitivities can only be termed barbaric. Because soring leads to the breeding of inferior animals, its continuance would only destroy the once honorable walking horse industry. We should no longer tolerate this pointless cruelty to animals undertaken for profit.

AMENDMENT OF TITLE I OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968—AMENDMENTS

AMENDMENTS NOS. 289 THROUGH 291

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

Mr. SCOTT of Pennsylvania submitted three amendments, intended to be proposed by him, to amendment No. 248, intended to be proposed by Mr. MCCLELLAN to the bill (H.R. 8152) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to improve law enforcement and criminal justice, and for other purposes.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 284, TO H.R. 8410

At the request of Mr. CHURCH, the Senator from Wyoming (Mr. MCGEE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. HART), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PASTORE), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. MAGNUSON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nevada (Mr. BIBLE), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), the Senator from Iowa (Mr. CLARK), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Illinois (Mr. STEVENSON), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of amendment No. 284 to H.R. 8410.

REMOVAL OF INJUNCTION OF SECRECY ON A TREATY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty on Extradition between the United States of America and Italy, signed at Rome on January 18, 1973 (Executive M, 93d Congress, first session), transmitted to the Senate today by the President of the United States, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty on Extradition between the United States of America and Italy, signed at Rome on January 18, 1973. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty significantly updates the extradition relations between the United States and Italy and adds to the list of extraditable offenses both narcotic offenses, including those involving psychotropic drugs, and aircraft hijacking.

The Treaty will make a significant contribution to the international effort to control narcotics traffic and to cope with other offenses. I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

RICHARD NIXON.

THE WHITE HOUSE, *June 26, 1973.*

ORDER FOR RECESS TO 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until 8:30 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow, the following Senators be recognized for not to exceed 10 minutes each, and in the order stated: The Senator from Oklahoma (Mr. BARTLETT); the Senator from Arizona (Mr. FANNIN); the Senator from Wyoming (Mr. HANSEN); the Senator from Oklahoma (Mr. BELLMON); the Senator from Alaska (Mr. GRAVEL); and the Senator from New Mexico (Mr. DOMENICI).

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be no morning business tomorrow. At 9:30 a.m., under the previous order, the Senate will take up the Schlesinger nomination.

If the orders for the recognition of Senators should be consummated prior to 9:30 a.m., it is hoped that the Senate can move to the consideration of the Schlesinger nomination earlier than 9:30 a.m. A yea-and-nay vote will occur on the nomination, but that vote will not occur before 12:30 p.m.

It is not implied that the debate on the nomination will last from 9:30 a.m. to 12:30 p.m.

Following the close of debate on the Schlesinger nomination, it is intended to take up the bill making appropriations for the Department of Agriculture, H.R. 8619.

I ask unanimous consent that it be in order for the Senate to proceed, following debate on the nomination, to the consideration of H.R. 8619.

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

Mr. ROBERT C. BYRD. Upon the disposition of the agriculture appropriation bill, the Senate will proceed to the consideration of the Omnibus Crime Control and Safe Streets Act of 1968, H.R. 8152.

I ask unanimous consent that when the Senate completes action on the agricultural appropriation bill it proceed to the consideration of the omnibus crime bill, H.R. 8152.

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

Mr. ROBERT C. BYRD. Mr. President, there will be several yea-and-nay votes tomorrow. The first vote will occur on the Schlesinger nomination at 12:30 p.m.

It is anticipated that any yea-and-nay votes in relation to the agricultural appropriation bill will occur after the vote on the Schlesinger nomination. There will be several yea-and-nay votes tomorrow.

RECESS TO 8:30 A.M.

Mr. GRIFFIN. 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 recess until 8:30 a.m. tomorrow.

The motion was agreed to; and at 11:01 p.m., the Senate recessed until tomorrow, Thursday, June 28, 1973, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27 (legislative day of June 25), 1973:

COMMUNITY DEVELOPMENT CORPORATION

Alberto Faustino Trevino, Jr., of California, to be a member of the Board of Directors of the Community Development Corporation, vice Samuel C. Jackson, resigned.

THE JUDICIARY

Prentice H. Marshall, of Illinois, to be a U.S. district judge fo the northern district of Illinois vice Alexander J, Napoli, deceased.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 27 (legislative day of June 25), 1973:

FEDERAL BUREAU OF INVESTIGATION

Clarence M. Kelley, of Missouri, to be Director of the Federal Bureau of Investigation.

DEPARTMENT OF COMMERCE

Sidney L. Jones, of Michigan, to be an Assistant Secretary of Commerce.

(The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Wednesday, June 27, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

According to the riches of His glory, may God grant you to be strengthened with might through His spirit in the inner man.—Ephesians 3:16.

Eternal God, the source of all that is good and true and beautiful in human life, once more we turn to Thee, worried, seeking Thy peace, weak, needing Thy strength and tired, desiring rest in Thee. We have tried to content ourselves with little things of minor importance but Thou art calling us to greater things of major importance. Restless we are until we find rest in Thee. Help us to respond to Thee, to be strengthened by Thy spirit in the inner man that we may do our work this day with Thy cause in our hearts.

O spirit of the living God, send us forth to serve Thee and our country with clear minds, clean hearts, and courageous spirits.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 296]

Addabbo	Dickinson	Pepper
Alexander	Diggs	Powell, Ohio
Ashbrook	Dingell	Pritchard
Badillo	Dorn	Reid
Blatnik	Fisher	Robison, N.Y.
Boggs	Ford,	Roncalio, Wyo.
Breaux	William D.	Rooney, N.Y.
Broyhill, N.C.	Fountain	Sandman
Byron	Gude	Seiberling
Chisholm	Hébert	Stark
Clark	Hinshaw	Steed
Clay	Jones, Ala.	Stokes
Conte	Macdonald	Sullivan
Cronin	Metcalfe	Teague, Tex.
Danielson	Mills	Thompson, N.J.
Davis, Ga.	Murphy, N.Y.	Thornton
Dellums	O'Neill	Veysey
Derwinski	Parris	Young, Tex.

The SPEAKER. On this rollcall 380 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

INCREASED DAIRY IMPORTS

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, the administration has continued its backdoor efforts to increase dairy imports without first consulting Congress.

I am talking about regulations, published in the Federal Register last week, which say that when countries fail to fill their import quotas for dairy products the Secretary of Agriculture may reassign the unfilled portion of these quotas to other countries.

What is really happening is that the administration is implementing by fiat the recommendations of the Flanigan report.

When Members of Congress were finally able to blast the confidential Flanigan report out of the USDA, we found out that the report advised the President "not to approach the Congress until after negotiations" on agriculture trade policies were concluded.

The administration's action in this recent case is bad enough, but the general attitude behind it is even more disturbing.

Changes in agriculture policy have a significant effect on both farmers and consumers, and should not be determined unilaterally by the executive branch.

Yet that is what is happening. Three times this year the administration has recommended increased quotas for foreign dairy products. Twice the dairy products were already here before the Tariff Commission met to see if they ought to be allowed into the country.

Mr. Speaker, we know that dairy products imported from other countries do not meet the same sanitation standards which our own products meet. Consumers in this country should find these regulations on import quotas published last week quite disturbing.

FIRE PREVENTION AND CONTROL ACT OF 1973

(Mrs. HOLT asked and was given permission to extend her remarks at this point in the RECORD.)

Mrs. HOLT. Mr. Speaker, I rise today to commend the National Commission on Fire Prevention and Control for their re-