SENATE—Thursday, November 29, 1973

The President pro tempore called the Senate to order at 10:30 a.m., and was answered by the Vice President pro tempore (Mr. Eastland).

PRAYER
The Reverend Dr. Seth R. Brooks, pastor, Universalist National Memorial Church, Washington, D.C., offered the following prayer:

Our Father, who through Thy wisdom didst permit men and women to bring forth our Nation, we offer our Thanksgiving. We remember famous men and women and the unknown and unsung for the deeds of accomplishment they wrought in our Nation. We are aware of all those who were men of present valor and would keep pure the springs of national purpose. We pray that in coming generations there may be truth, goodness and love for Thy body. Amen.

THE JOURNAL
Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the record be extended for the purpose of including the following statement made by Senator Scott:

Countdown
10! Such brave men
Like Astronauts and Aces
9! Your tin foil suits shine
While rocket engines whine
8! Soon you will accurately
Ignore your fate
7! Onward, upward to heaven
Just like Apollo II
6! Your seatbelt neatly clicks
While the clock steadily ticks
5! Nerves are the only thing
No one's certain you'll survive
4! Into the empty space you'll soar
Heroic men of the Air Corps
3! Only He can foresee
What will become of thee
2! Up, up into the blue
Farewell! Adieu!
1! You long road has begun
It cannot be undone
0! All systems go!
To explore the long ago
—RAYMOND ROEKE.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED
A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes.

The bill was subsequently signed by the President pro tempore.

ORDER OF BUSINESS
The President pro tempore. The Senate from West Virginia.
Mr. ROBERT C. BYRD. Mr. President, I do not desire recognition at this point. The President pro tempore. The Senator from Pennsylvania.
Mr. HUGH SCOTT. Mr. President, I have elected not to disturb the peace of the Senate.

The President pro tempore. Under the previous order, the Senator from Montana (Mr. Mansfield) is to be recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have control of the time allotted to the disputation of the majority leader.

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

RULES AND PRECEDENTS
Mr. ROBERT C. BYRD. Mr. President, I wish to raise a question that deals with the rules and precedents of the Senate, and I wish to do so merely for the benefit of future guidance of the Senate. I suppose I have two or three questions that I would like to have resolved, if it can be done.

The first question would be this: A motion to table having been made, and the Chair having duly recognized the Senator who made that motion, can a point of order be entered at that point, thus displacing the motion to table?

The President pro tempore. The Chair is advised that after considerable research there appears to be no decision of the Chair exactly on point; however, in 1934 there was a ruling by the Chair that is very closely related. In that instance a resolution was being considered under a unanimous-consent agreement when the Chair stated that a Senator who had the floor could not be interrupted against his consent and that he was not required to yield for a question of personal privilege or a parliamentary inquiry.

In that instance the Senator who had the floor was subsequently called to order under rule XIX for the use of alleged objectionable language. The Presiding Officer, however, ruled that in his opinion the speaking Senator had not violated the rule. The Chair then having held that an appeal from the ruling was in order and subject to debate under the rule, an appeal was taken. The time for debate of the resolution having expired, a motion to table the resolution was made and carried. Subsequently, in reply to parliamentary inquiries, the Chair informed the Senate that the motion to table which was not debatable having been made was in order, and having been agreed to, the previous appeal from the ruling of the Chair was carried with it.

It would appear to the Chair that an appeal from the decision of the Chair and a point of order have comparable standing.

The procedure for the case in point, based on the above precedent, reasonably would have been as follows: A point of order against any procedure is in order at any time until that matter has been disposed of, but that does not mean that it has a higher privilege over all other motions. In this case the pending question had moved from the amendment per se to the motion to table and a point of order could be made against that motion to table as being in order or not being in order at that point, but the Senate had then moved one step from the amendment per se to a privileged motion—a motion to table had been made, which was not debatable. If the motion to table had carried, there would be no need for a point of order. If the motion to table failed, a point of order against the amendment as not being germane would still be in order.

Mr. ROBERT C. BYRD. So, Mr. President, if I can provide my own interpretation, that precedent as I understand it is the only precedent that the Parliamentarian has been able to find that would be anywhere near the point that I raise. It would be my own interpretation that, as the Chair has stated, a point of order has equal standing with an appeal from a ruling by the Chair.

The President pro tempore. In respect to this situation it would appear so.

Mr. ROBERT C. BYRD. And a motion to table having been made had precedence in that instance over an appeal from a ruling by the Chair. Am I correct?

The President pro tempore. The previous ruling had that effect.

Mr. ROBERT C. BYRD. And that is the only precedent that can be found?

The President pro tempore. Except that there have been numerous rulings on points of order which hold that they may be raised until the said question is disposed of.

Mr. ROBERT C. BYRD. I understand that, I say most respectfully to the Chair that as I heard the Chair read the precedent that the motion to table in that instance took precedence over an appeal from the ruling of the Chair. Am I correct?

The President pro tempore. It would appear so.
Mr. ROBERT C. BYRD. Mr. President, that being the case, then a motion to table having been made, it would have precedence over a point of order coming in thereafter, if the point of order is equivalent to an appeal from the ruling of the Chair in the same circumstances.

Mr. HUGH SCOTT. Mr. President, would the distinguished Senator from West Virginia yield before the ruling?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. Mr. President, I want to raise a question of the importance of this colloquy, because I would think that we need to be very cautious not to bind the Senate in all future proceedings. This is a colloquy for information purposes. And upheld earlier that it is not intended as binding precedent unless it happens in an actual case. I take it that we are proceeding on a theoretical basis.

Mr. ROBERT C. BYRD. We are; we are exactly. And I certainly want to substantiate what the distinguished Republican leader has said. However, I think that is incorrect.

The PRESIDENT pro tempore. These responses to parliamentary inquiries are not binding on the Senate because an appeal from these statements cannot be taken.

Mr. ROBERT C. BYRD. Exactly; however, I think it is important, may I say to my distinguished friend, the Republican leader, that we have some clarification on this situation, because on yesterday I made a motion to table. And I do not want any misunderstanding as to my purpose today in raising the question. I am not a sore head about the point of order having been upheld yesterday by the Chair—that there was uncertainty on the part of the Parliamentarian’s office.

The fact that it was marked out indicates to me that my question was not properly answered on the floor yesterday during the debate.

So, what I want is some understanding of whether the decision of this question will come up again someday. It is my belief that a motion to table having been made, as it was on yesterday by me, a point of order would not have been allowed to come in. And it was because a motion to table, if it carries, accomplishes the purpose of the Senator who wants to raise the point of order. If it fails, the person raising the point of order has lost no right. He can still raise his point of order.

Mr. HUGH SCOTT. Mr. President, there is a very considerable risk in revising the rules of the Senate through a colloquy. And the Chair has already answered that by saying that the responses of the Chair on points of order are not binding on the Senate.

There are, however, I say to my distinguished friend, the Senator from West Virginia, of a certain ambivalence under some situations in the Senate, because we cannot entertain a point of personal privilege. I have in mind a point of personal privilege. Suppose that the speaker who was about to move to table an amendment had said something which involved another Senator on a point of personal privilege. It might be—and I am not exactly certain how the ruling would go—that the Chair would rule that the point of personal privilege had to be disposed of prior to a motion to table because it had occurred earlier. Stating a hypothetical case, there might be points of order of such substantial nature and of such importance to the Senate and perhaps to the Chair that the Chair might rule under those circumstances that the point of order takes precedence.

I appreciate what the distinguished assistant majority leader is trying to do. I do not want to caution once more that we ought not to try to anticipate anything that can happen in this unpredictable body.

I was not present when the incident arose about which the Senator is talking. So, I have no opinion on that.

Mr. ROBERT C. BYRD. Mr. President, I apologize when the Senator says. Perhaps I ought to address myself to the matter of the point of order. I have no fault to find with the Senator in making the point. He certainly has within his rights. However, I strongly feel that the motion to table had precedence, it having been made. And as one Senator who has sat on this floor almost every day for 8 years, I am not an expert on the rules. I do not think that any Senator should be expected to know as much about the rules and precedents or to have anything near the expertise of the Parliamentarian. That is why we have a Parliamentarian.

However, I have been here long enough to have some meager understandings of some of the rules and precedents. And I have been on the floor long enough to know that we can have the same situations occur again. I feel that the question to be raised at this point to indicate that there is one Senator who would not agree that a point of order coming in after the motion had been made. I did not want to press the point, because I thought at the time that I could be wrong. However, I now think I was right.

Mr. HUGH SCOTT. Mr. President, will the Senator let me raise a different point very briefly that was raised yesterday in connection with another matter of procedure?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. We had some concern expressed on a time agreement that I made yesterday. I was uncertain whether a quorum call was expected to take place or not at that time, that some Senator planning to leave immediately after the 4 o’clock vote may have been misled because the quorum call delays the vote until 4:20, or the reverse happens; someone comes in at 4:20, there is no quorum call, and he misses a 4 o’clock vote.

I wavered if we could establish some kind of procedure for the information of Senators whereby, in time agreements, we agree that we shall vote at 4 o’clock, it has to be preceded by a quorum call, so Senators may be on some notice. Could we do that?

Mr. ROBERT C. BYRD. May I say in response to the inquiry of the distinguished Republican leader that I find no problem here. I do not know precisely what happened yesterday, because at the time the confusion was going on, I was thinking about my motion to table.
lican leader that any Member has a constitutional right to suggest the absence of a quorum immediately before a vote, even though the hour for voting has been agreed to by the Senate. There is no question of that.

Mr. HUGH SCOTT. That is right.

Mr. ROBERT C. BYRD. We have done that many times, and any Member has a constitutional right to raise the point of no quorum, because no business can be conducted in the Senate if there is no quorum. Unless a quorum is present, no Member can call for a quorum just before a vote, even though a time has been set for a vote, and he will be upheld in his right.

Mr. ROBERT C. BYRD. A quorum call is always heretofore yielded back to be returned to the time of the previous order.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the time I yesterday yielded back to be returned to me.

The PRESIDENT pro tempore. The time has expired.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the time I herefore yielded back to be returned to me.

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

Mr. HUGH SCOTT. I now yield that time to the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. I thank the able minority leader. I have answered that. I want the Chair to indicate whether or not the time is yielded, but before he does so, I want to go on to the next question.

Mr. GRIFFIN. Could we have one question at a time?

The PRESIDENT pro tempore. Under the precedents, a quorum call is always in order just before a vote.

Mr. ROBERT C. BYRD. So that disposes of that.

Mr. HUGH SCOTT. Then I would suggest that perhaps we might accommodate Senators by providing that a quorum call shall occur at 15 minutes to 4 or a quarter to 4, so that Senators, who very often are making speeches in the evenings in other places, other cities, will be able to arrange their schedules.

Mr. GRIFFIN. Mr. President, before we leave that point, if the Senator from West Virginia will allow me, I would like to follow the remarks of the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. I think it should be noted, without commenting on whether or not an error was made with respect to the point that he is primarily concerned about, I want to focus back on my effort yesterday, at the point where a vote was to be taken on the motion to table, when I suggested the absence of a quorum and I recall that the Chair at that point indicated that such a suggestion was not in order unless time were yielded to me.

Mr. ROBERT C. BYRD. That is a different question. If a certain amount of time is allotted to an amendment, let us say 15 minutes to a side, no Senator can put on a quorum—I hope I am correct; the Chair will sustain me if I am—no Senator can put in a quorum until that 30 minutes has elapsed, or has been yielded back, or unless time is yielded by one side or the other, or both sides, for such quorum, or unless there is a unanimous-consent agreement to the effect that a quorum call may occur without the time being charged to either side. That is quite different.

But when the time has expired or been yielded back, then nothing can keep the Senator from Michigan from getting a quorum, because he is entitled to that quorum before the transaction of business occurs. He is entitled to a showing that there is a quorum present. But as long as all time has not expired or been yielded back, he is not entitled to get his quorum call except by unanimous consent or unless time is yielded by someone for the purpose.

Mr. ROBERT C. BYRD. If

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that I might be allowed 5 minutes, in order that I might discuss this parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, so the time will not have to be broken on rules that are not written down. I have just gotten the time back for the majority leader that he ordinarily gets at the beginning of every day under the standing order. I did not use any of that. I am sure the majority leader will use some of it, and be glad to yield some of it to the Senator from Alabama.

Mr. MANSFIELD. Mr. President, if the Senator does not desire to be heard now, I would be glad to yield some of my time to him. If he wants to be heard, I am delighted to yield to him.

Mr. ALLEN. No, I would be delighted to be heard later. I just thought now might be a logical time.

The PRESIDENT pro tempore. The Senator from West Virginia did not have reference to the 15 minutes yielded to the majority leader under the special order, but he asked that the 5 minutes at the beginning of the session be returned to the majority leader.

Mr. GRIFFIN. Mr. President, is there any time left on this side for the minority leader?

The PRESIDENT pro tempore. No, but there is time for routine morning business.

Mr. MANSFIELD. If the Senator from Alabama will allow me, I would like to proceed now, and ask that what I have to say be printed in the Record after the remarks of the distinguished Senator from Alabama, and that his remarks follow the remarks of the distinguished Senator from West Virginia.

Mr. ALLEN. That will be entirely satisfactory.

Mr. MANSFIELD. The reason I make the request is, I am chairman of the military construction conference.

Mr. ALLEN. That will be entirely satisfactory.

The remarks of Senator MANSFIELD on the subject of gasoline rationing appear later in the Record, by unanimous consent.

The following colloquy, which occurred later, is printed at this point, to preserve continuity.

Mr. ALLEN. Mr. President, I feel sure that I am one of the greatest admirers, in and out of the Senate, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) has. Not only do I admire his great parliamentary skill, his great knowledge of the rules of the Senate, and his adherence to those rules, as well as his adherence to the rules and provisions of the Constitution of the United States, I might add.

In view of the fact that I will not be able to make all the points I should like to make in this connection on the other point.

Mr. ROBERT C. BYRD. That is the point I wished to make.

Mr. President, I am sorry for taking the time of the Senate.

The PRESIDENT pro tempore. The additional time of the Senator has expired.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that the
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of the point of order that the colloquy has been on this morning. I ask unanimous consent that the colloquy appearing on pages 38348 and 38349 of The Congressional Record be printed at this point in the Record.

(Subsequently, by unanimous consent, page 38349 was also ordered to be printed at this point, to precede pages 38348 and 38349.)

There being no objection, the excerpts from the Record were ordered to be printed in the Record, as follows:

The PRESIDENT. Has all time been yielded back?

Mr. Allen. All time has not been yielded back.

Mr. Robert C. Byrd. I yield back my time.

Mr. President.

Mr. Allen. Mr. President, Mr. Fong, Mr. President, I yield 2 minutes to the distinguished Senator from South Carolina (Mr. Thurmond).

The PRESIDENT. The Senator from South Carolina is recognized for 2 minutes.

Mr. Thurmond. Mr. President, article 1, section 2, of the Constitution guarantees a salary for all Federal officers. No Senator...shall, during the time for which he was elected, be appointed to any civil office which...shall have been increased during such time.

This provision, if properly construed, simply means that if the salary of a civil office is increased, or the emoluments of an office are increased while a person is a Member of Congress, then such increase is not eligible for appointment to that office.

Why? To prevent personal aggrandizement of any sort.

Had the Attorney General's salary not been increased while Senator Saxbe was a Member of the Senate, then no one would have been eligible for that office. By lowering the salary, as this bill would do, we remove the barrier created by Congress in 1969 when it increased the salary. If Congress can create the barrier Congress can remove it.

Senator Saxbe is a man of character, courage, and capacity, and I predict he will make a great Attorney General.

Mr. President, on November 27, 1973, the Washington Post printed an editorial entitled "The Saxbe Nomination." I ask unanimous consent that this editorial be printed in the Congressional Record.

The PRESIDENT. The editorial was ordered to be printed in the Record, as follows:

THE SAXBE NOMINATION

It is clear that the framers of the Constitution intended only to prevent members of Congress from deliberately cashing in on their votes when they put in a restriction against senators and representatives serving in any federal civil office after having voted to award the salary for that office.

It would seem, therefore, that legislation rolling back the salary, for the office of attorney general, would be sufficient to clear the way for confirmation of Senator Saxbe of Ohio to head the Department of Justice.

During the first year of Saxbe's Senate term, he voted in 1969 for legislation that raised the salary of cabinet officers from $35,000 to $60,000. According to those who question Senator Saxbe's integrity, this makes him ineligible to serve as attorney general.

Because of a prohibition in Article 1, Section 6 of the Constitution, which says that a member of Congress shall be appointed to any civil office for which the "emolument...shall not be increased" during his term in the Congress.

The Nixon administration has proposed to clear the way for Saxbe's confirmation by cutting his salary to $35,000. Critics claim this is not enough to overcome the Constitutional barrier.

Mr. Fong. Mr. President, even though cabinet salaries were increased...the Constitution is...fell to into the "emolument" category.

In the present Watergate atmosphere, it is not necessary that the salary of the Attorney General be increased while Senator Saxbe is a Member of Congress. It is clear that the salary becomes eligible for that office. By lowering the salary...the term of office are increased, or that being created, or the emoluments whereof shall have increased during such time.

This provision, if properly construed, simply means that if the salary of a civil office is increased, or the emoluments of an office are increased while a person is a Member of Congress, then such increase is not eligible for appointment to that office.

Why? To prevent personal aggrandizement of any sort.

Had the Attorney General's salary not been increased while Senator Saxbe was a Member of the Senate, then no one would have been eligible for that office. By lowering the salary, as this bill would do, we remove the barrier created by Congress in 1969 when it increased the salary. If Congress can create the barrier Congress can remove it.

Senator Saxbe is a man of character, courage, and capacity, and I predict he will make a great Attorney General.

Mr. President.

Mr. Harry F. Byrd, Jr. Mr. President, I move to table the amendment.

The PRESIDENT. The motion to table is not debatable. However, the motion to table is not debatable. However, the Chair will allow a debate on the point of order.

The PRESIDENT. The motion to lay on the table is not debatable. However, the motion to table is not debatable. However, the Chair will allow a debate on the point of order.

The Chair sustains the point of order.

Mr. Robert C. Byrd. Thank you, Mr. President.

Well, I wouldn't agree with the ruling, but I think this indicates the confusion that we are all in here. The amendment was for the purpose of doing directly what the Senator, and the Senate confirmed it, but which we are attempting to do indirectly in the form of S. 2673.

Now, Mr. President, how much time do I have to respond from the floor and make a motion to table—I was recognized and made a motion to table. The Chair then allowed a debate on the point of order and the distinguished Senator from Alabama (Mr. Allen), I did not argue the matter then. I was not interested in appealing the ruling of the Chair or on the point of order with the offering of the amendment. So, I am...
not quarreling with the distinguished Senator from Alabama at all—or with anyone else.

I am not satisfied, however, that a point of order can be made to table a motion that has been duly made by a Senator, because there can be no debate on a motion to table.

I would therefore urge the Senator to research this matter. Mr. President, I am not setting myself up as a parliamentary expert, but I think, if this is right, then we should know; and if this is wrong, then we should know that the Senate will be properly guided in the future.

Thus, I would urge the Senator, with all due respect to the Senator from Alabama, to research this question and be prepared at a later date to state precisely what that research shows.

Mr. ALLEN. Mr. President, will the distinguished assistant majority leader yield?

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

Mr. ALLEN. I recognize the parliamentary skill of the distinguished assistant majority leader. Certainly it is unequalled in this body. I believe that his recital of the circumstances surrounding the recognition of the Senator from Alabama up to the making of the point of order left out, unknowingly of course, an added circumstance that, before the time was yielded back, the Senator who made the motion to table and addressed the Chair and was recognized by the Chair and then stated that he wished to raise the point of order yielded back. This is the occupant of the Chair at that time, the junior Senator from Louisiana (Mr. Johnston), stated that the Senator from Alabama (Mr. Johnston) had not been yielded back out of order inasmuch as all time had not yet been yielded back. The Senator from Alabama at that time—and the official Record will reveal this—then stated to the Chair, "Will the Chair then recognize the Senator from Alabama as soon as all time has been yielded back?"

The Chair stated that he would. So, in the first place, the Chair was merely carrying out his commitment made before the whole Senate during the proceedings of the Senate to the Senator from Alabama that he would recognize him for the purpose of raising that point of order as soon as all time had been yielded back.

Now that would certainly justify the Chair in recognizing the Senator from Alabama.

Now, on the other hand, and I appreciate the Senator's asking that the Senator from Alabama has not been yielded back, I think that the Senator from Alabama that if any amendment is improper before the Senate, a motion to table that amendment is improper before the Senate, and that would make it impossible for the Senate to act, and that would not be a debate, but it would be merely raising a parliamentary point.

So I do certainly join in the request of the distinguished assistant majority leader that the Senator from Alabama be yielded back. Mr. President, I am grateful for the comments that the distinguished Senator from Alabama (Mr. Allen) has made, because they round out the record.

I do not agree, however, that the Chair has any business committing itself to recognizing any Senator at a later point unless it is done by unanimous consent because, under the rules, as the Senator well knows, the Chair is the Senator first seeks recognition. But the Chair, of course, has discretion. The Chair does not have to do such.

I do not think that the Senator from Alabama asked that he be recognized at a later time to make his point of order carried with it any status. I suppose the Senator did not have to do so. I got recognition after the Senator from Hawaii yielded the floor. I made my tabling motion, which would have had the same practical effect, if it had carried, as taking down the amendment by a point of order.

Mr. ROBERT C. BYRD. What point?

Mr. ROBERT C. BYRD. I will tell the Senator why I did not raise it at the time. Our time was short. I did not want to appeal the ruling.

Mr. ALLEN. I am not talking about the ruling.

Mr. ROBERT C. BYRD. I understand. I did raise the point of order, but I did not want the question the Chair further.

I am not concerned because the Senator's point of order has been made. I wanted to see the amendment tabled.

What I am concerned about is this: I do not believe that previous precedents will show that my motion to table should have been shown. We ought to know what the precedents are, so that the Senate can be correctly guided in the future. That is all I am asking for.

Mr. ALLEN. The distinguished majority whip will recall that at one time, when the Senator from Alabama had a motion to table before the Senate on the postcard registration bill, the distinguished majority whip put in some six, seven, or eight quorum calls and motions to adjourn, in the face of a motion to table.

Mr. ROBERT C. BYRD. Yes. A Senator, under the Constitution, has a right to call for a quorum; and a Senator cannot be denied the constitutional right to call for a quorum before a vote.

Mr. ALLEN. I saw it happen here today, when we were not allowed to have a quorum call there unless we yielded back.

Mr. ROBERT C. BYRD. The Senator raises a good question. The Senator was denied his constitutional right for a quorum call.

Mr. ALLEN. One more response to the Senator from West Virginia: I doubt that we are going to find a precedent in which a point of order was raised in the face of a motion to table, where the President Offic had committed himself to recognize a Senator for making a point of order and did proceed to recognize him in compliance with his commitment. I doubt that we will find a precedent on all fours with that.

Mr. ROBERT C. BYRD. We may not, Mr. President. But I assure the Senator again that there is certainly no ill will on my part toward him for raising the point of order. That was his right. There is no ill will on my part toward the Senator. I want the precedents researched.

Mr. ALLEN. I am sure there is no feeling from this side on the part of the distinguished Senator.

Mr. ALLEN. Mr. President, I care not how the Chair rules on this point. I agree with the distinguished Senator from West Virginia that the Senate ought to know what the construction by the Chair of that rule is, as to whether or not a point of order can be raised after a motion to table has been made on an amendment or a measure before the Senate. I believe it was restricted in this case to the germaneness of an amendment.

Mr. ROBERT C. BYRD. Mr. President, I do not want to belabor this point, except for the purpose of having the Record show the counter argument. I realize that this will not settle the matter, but I think the Record should also...
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show the other argument, which I wish to make.

First of all, I did turn to the able Senator at some point and say, "Now is the Senator ready to make his point of order?" There is no question about that. But time passed. I decided in the meantime to press the motion to table. Every Senator has a right to change his mind.

So, having earlier put the Senate on notice that it was my intention to make a motion to table, having made the motion to table, and having with due consideration decided I would pursue that course. That was why, even though I had turned to the able Senator and said, "Is the Senator ready to make his point of order?" and he could not make it at that point, I later felt that I was perfectly within my right to pursue the course I had earlier outlined and move to table.

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

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. I think that in order to come under the precedent that has been cited by the Senator from West Virginia, it would have been necessary for the Senator from West Virginia to renew his motion to table after the point of order had been raised by the Senator from Alabama. The Senator from West Virginia had done that, he would have come squarely under the precedent; but not having done that, I do not believe the precedent covers the exact situation that transpired on yesterday.

Mr. ROBERT C. BYRD. Mr. President, if the Senator had made his point of order, I think it would have been perfectly proper for the Chair to rule on his point of order. But the exact situation was that I had already made a motion to table. The Chair said, "The question is on the table." He was going through the ritual of saying, "The question is on the motion to table."

I had been recognized, and the motion to table was before the Senate. A motion to table cannot be debated. I did not feel that at that point a point of order was in order with respect to germaneness.

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

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. If the Senator then had renewed his motion to table, he would have come squarely under the precedent; but not having done so, he did not do it. Mr. ROBERT C. BYRD. I did not need to renew it, it was before the Senate. The Chair arbitrarily took it away from me. That is the thing I am concerned about—not so much because of yesterday, but it might happen again, and it might happen the next time to the distinguished Senator from Alabama.

As to the logic, Mr. President, I greatly respect the Senator from Alabama. He is a great American, a great Senator, a Christian gentleman. I think he is the best parliamentarian now serving as a Member of the Senate. He has had very valuable experience formerly as the Lieutenant Governor of Alabama, in presiding over the Senate of Alabama. He has had a long and distinguished service before coming to the U.S. Senate. So far as an argument, I bow to him. But I cannot agree that the logic of this matter is as he has stated.

First of all, it seems to me that a motion to table, not being debatable, can settle a matter more quickly. If we go the route of the point of order, then there is the matter of appealing the ruling of the Chair, that can arise, which is an all-require a vote, and it can be debated. There is the matter of tabling the appeal of the ruling of the Chair, which is in order. That could require a vote. Moreover, I do not like to see the Chair wrongly overruled. When the Senate goes that route, it opens up the possibility that the Chair will make a ruling that is the right ruling and which will be sustained, rather than have the Senator, because Senators who come in the door are often guided by the emotion or merit involved in the particular amendment or motion, or whatever is at stake, and they may feel that it is proper for the Chair to overrule the point of order. If that is the case, it may be overruling the Chair and breaking a vital and longstanding precedent.

So I think that anything that will best avoid that possible danger, plus the cost of additional time involved in that route, is the way the Senate ought to go; and the motion to table is not been made the motion to table, and without the danger of having the Chair overruled in error. If it fails, the Senator who wants to make the point of order can still make his point of order, and he has lost no right of his. Mr. President, I close with this comment.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BYRD. The distinguished Senator from Alabama has asked that certain pages of the Record be printed.

Mr. ALLEN. Yes. Page 38348, and 38349.

Mr. ROBERT C. BYRD. Yes. On page 38346 I responded to the distinguished Senator from Alabama by saying: I did understand. I did raise the point, but I did not want to question the Chair further.

In order that that may be clear as to the fact that I did raise the point, I ask unanimous consent that page 38341 also be printed in the Record, and I think it should appear. If the Senator has no objection, just prior to the pages which he has not requested be printed because that page appears prior thereto in the Record.

Mr. ALLEN. Yes.

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

(See prior point in Record where pages 38341, 38348, and 38349 appear.)

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the limitations on statements during the period for transaction of routine morning business today be limited to 5 minutes rather than 3 minutes.

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

GAS RATIONING WILL BE NECESSARY

Mr. MANSFIELD. Mr. President, the latest figures on unemployment are at 4.5 percent which I think is the lowest in 3 years. These figures go back a month. I believe. Since that time, there have been statements made that unemployment, in view of the energy crisis, will possibly reach 8 percent.

I note that the administration, in the person of the Chairman of the Council of Economic Advisers, Mr. Stein, said he saw no basis for projections of a possible 8 percent unemployment rate in the next year if the Arab oil embargo is not lifted. That statement is taken from the Oil Daily under date of Thursday, November 8, 1973.

However, I note that United Airlines, American Airlines, and Frontier Airlines have laid off pilots, stewardesses and stewards, and some ground crews, or will be in the process of doing so shortly.

I note also that a private plane company, the Cessna Manufacturing Co., believe located in Kansas, at the present time has indicated it will be forced to lay off 25 percent of its personnel and perhaps more in the months ahead because of the prohibitions on fuel down so far as general aviation is concerned.

I note also that on yesterday it was announced the armed services are shipping to Vietnam 22,000 barrels of aviation gasoline every day.

It is known, of course, that because of the drawdown in Mideast oil, something on the order of 600,000 barrels a day, I believe, has been the domestic use for the use of our armed services. That is understandable. I do not know whether they need that much, but certainly the armed services should have a priori. But I cannot understand 22,000 barrels of oil a day going to Cambodia and South Vietnam at this time; because I want to say to my associates in this Chamber that we are facing a crisis which I do not think we even yet realize is as serious as it is going to be.

Mr. President, the resumption of oil shipments from the Mideast would make a difference in the future, and I would say, up to 2 years, in the difficulties which confront this Nation in an energy sense today.

We have been profligate with our resources. We have been wasteful with our energy uses. We have, I understand, over the past several years, wasted between 40 percent to 50 percent of the energy we consume.

We are not going to be able to overcome that deficiency through lowering
thermometers in our homes or offices to our automobiles, a rate, incidentally, which I note in the last day or so has been raised to 55 miles an hour for trucks. Chilly speeds on our highways will be among the least serious of the difficulties which confront us at the present time.

What I am worried about is not the minor sacrifices of the economic effects of the shutdown on imports on the one hand and the wastage on the other by this country will cause, because what we will have will be increased employment, and the signs are there already—whether we like it or not; and what we will have will be increased taxation in this country today and we are well aware of what this crisis—this potential crisis—can do to us in the years ahead.

EXTENSION OF PERIOD FOR THE TRANSACTIONS OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended an additional 30 minutes, with statements limited therein to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma is recognized.

Mr. BARTLETT. I thank the distinguished Senator from West Virginia.

STEEL AND ENERGY: MUTUAL DEPENDENTS

Mr. BARTLETT. Mr. President, the people of the United States are facing a severe energy crisis. By the end of this winter, and surely by the end of next summer, there will be few if any "non-believers" in the existence of an honest to goodness energy crisis of huge proportions.

It is hard to believe, but almost nothing is being done to improve our energy situation; and on the contrary, much is being done to exacerbate it. Constructive legislation is being sidetracked by previous political commitments and lack of understanding of the petroleum industry. Instead Congress seems to be satisfied with merely spreading out the shortages rather than doing something to relieve them—guaranteeing rationing and sacrifice including loss of jobs and simultaneously guaranteeing no solution to the real problem of insufficient supplies of energy.

Ironically, the dependence of the energy industry upon steel and the corresponding dependence of the steel industry upon available energy represents probably the most important relationship within the petroleum industry. The petroleum industry is trying to reopen the steel industry upon available energy resources. In the existence of an honest to goodness energy crisis of huge proportions, it is not attractive to foreign steel makers to export steel into the United States any longer when they can receive a higher price elsewhere. Historically, imported tubular steel has cost about $25 to $30 per ton less than domestic steel. Now, if you can find anyone who will import tubular steel, it costs $25 per ton more. A dollar a ton is an insignificant devaluation of the dollar and prices on domestically produced steel products and tubular goods controlled at a level significantly lower than the corresponding foreign prices have encouraged an expectation of American steel products. Exported steel can be delivered to other countries cheaper than foreign-made steel, so the demand from the outside is being developed. Domestic mills can get 25 to 35 percent more for steel that they export. It seems reasonable to assume that with such an expectation the tentative export commitments will increase.
The price controls on steel have been a disincentive to U.S. steelmakers to invest in new steel and rolling mill capacity. The return on the investment at current prices is not enough economic incentive to justify the investment.

Even after the decision is made to add new capacity, it will take from 2 to 3 years to complete significant capacity.

A second major reason that steel tubular goods are in short supply is that drilling activity is up in response to recent price increases for oil and natural gas. Some drilling prospects that would have been abandoned at lower prices, because of the unfavorable economics, are now more attractive at the higher prices.

In participation of expanded drilling programs many larger operators have been stocking up with pipe sufficient to meet their needs for several months.

There is a small independent operator, who drills most of the wells in the United States—approximately 75 percent—in general, cannot afford to buy great quantities of pipe. Now he cannot spot buy tubular goods to fill his needs. Plans to drill wells have been delayed or abandoned for lack of drilling pipe or casing.

Under the inequitable two-tier pricing system for crude oil, adopted by the Cost of Living Council, there was some incentive in light of the casing shortage to abandon marginal, low volume producing wells with "old" oil being sold at lower prices than "new" oil would bring. In some instances the casing was pulled from producing oil wells and used in newly drilled wells—which could receive a higher price for crude oil—under the Cost of Living Council's guidelines.

It makes no sense to shut in "old" production because casing is not available for "new" wells, but the steel shortage and the Cost of Living Council's regulations encouraged producers to do this.

Used casing prices have gone up 75 percent in the past 6 months because of the shortage of new steel. Now, generally, used casing is selling at nearly the same prices as new casing and in some cases exceeds the price for new casing.

The " stripper well amendment" which I proposed in April, that an oil pipeline bill has become law. Exempting these marginal wells from price controls will help to discourage these producing wells from being plugged and abandoned.

The petroleum industry is trying to respond to recent price increases for crude oil and natural gas. But their effort is being hampered by lack of steel. At the same time, the steel industry is dependent upon adequate supplies of oil and gas in the manufacture of steel.

The steel industry uses approximately 300 billion BTUs of energy annually. Although much of this energy is derived from coal, the 18 percent supplied by natural gas and the 9 percent supplied by fuel oil are critical to the reheating, annealing, heat treating, and similar specialized uses where the technology has not yet been developed to permit the use of other fuels.

Now that our energy situation has degenerated to a condition requiring allocations of fuel, the steel industry faces allotments of critical fuel on the basis of previous levels of operations which are far short of the current demand.

There is a mutual dependence of the steel industry facing restrictions on fuel usage at a time when increased steel production is a must if additional supplies of fuel are to be generated. The steel industry and energy have a mutual dependence.

On November 1, I sent a telegram to President Nixon calling upon him to encourage the removal of price controls on crude oil and products which are associated with the exploration, development, and production of energy. This is a necessity if exports of steel are to be discouraged for short-term steel shortage are to be made attractive and if investments are to be made by the steel companies to increase capacity. Fourteen of my colleagues signed this telegram with me.

On November 9, 1973, I wrote a letter to Secretary of the Treasury, George Shultz, again calling attention to the untenable situation, I will meet with Senator Tower, Dr. Donald of the Cost of Living Council, and others including several distinguished Senators, early next week on this important matter.

This Nation has used our plentiful energy resources to produce high productivity—our productivity in turn has brought high employment, high standards of living, good health care, an improved environment, expanded social programs, a record not matched by any nation.

Our shortage of energy means a reduction in productivity—a reduction in jobs, health care, education, environmental progress, and social reforms.

We cannot increase productivity at prices that produce shortages of oil and gas and steel.

The oil, gas, and steel industries are like grocery stores which have been selling items off the shelf at less than replacement prices.

It is time that all the necessary building blocks are put into place to help increase supplies of energy. Unfortunately, up to now we as a nation have been very shortsighted. Congress has had little insight toward providing solvable solutions to our energy problems. Instead Congress seems content to spread out shortages rather than eliminate them. Let us unite together to be positive as well as negative. This country was not built by accenting the negative. Rather it was built by vigorous courageous positive action. Let us unite to increase supplies of energy.

To increase supplies of oil, gas, and steel while reducing demand and putting each fuel to its best use, we must raise prices—the fairest way is to remove controls and to establish a free market.

BUDGET REFORM LEGISLATION

Mr. PERCY. Mr. President, I am most appreciative that the acting majority leader and the distinguished chairman of the Committee, Mr. S. mural, and other members of the Committee on Budget Control expedite its studies for the purpose of recommending to Congress, by February 15, 1973, a comprehensive bill of the congressional budget process.

The Committee on Government Operations went to work after studying the results of the 33-member, bipartisan joint committee on budget control, which made its report in April.

In the first 6 months of 1973, Members of Congress introduced more than 250 bills and resolutions dealing with reform of the federal budget process.

The leadership received a letter on congressional concern signed by the 13 freshman Senators. The letter stated that—

The most crucial question facing the body today is this: What do we intend to do about the Federal budget and our constitutional responsibility over it?

The Committee on Government Operations began its work on this bill in September and early in March. The distinguished Senator from North Carolina (Mr. Ervin), the distinguished Senator from Montana (Mr. Fulbright), and I introduced a comprehensive bill, S. 1541, on April 8. More than 30 witnesses testified during 8 days of hearings, including a wide range of budget experts. Agreement on the need for reform was unanimous.

The Budgeting Subcommittee began its markup session on S. 1541 in June and reported the bill on July 25. The full Government Operations Committee began its markup in September and ordered the bill reported on November 8.

Mr. President, I ask unanimous consent to have printed in the Record at the close of my comments two articles published in the Washington Post on October 7 and October 10, written by David Broder.

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

(See exhibit 1.)

Mr. PERCY. Mr. President, the conclusion of the October 7 article is that—

Now, as the session draws to a close, it is the thirdí article of the Democratic leadership—of Speaker Carl Albert and Senator Mike Mansfield—to see to it that the opportunity for this essential reform is not lost.

There is another article, dated October 16, in which this distinguished columnist, once again said it is time for the Senate to put its own house in order and give high priority to budget reform.

This bill has been reported out in the House and the House has scheduled action for December 3 and 4. The House recognizes that if we let this legislation slip into next year, we will lose a whole year's work because among other things, it calls for a change in the fiscal year to October 1, and it is necessary to get that change underway.

I, therefore, feel it is crucial to bring this legislation to the floor and vote on it before we go home for Christmas.

I think, as the distinguished chairman of the Committee on Government Operations (Mr. Ervin) has said, it is the
The most important legislation facing the Congress this year is certainly the most important legislation I have worked on in 7 years in the Senate.

As James J. Kilpatrick said in his article in last night's Washington Star-News, "My thanks are engaged for the original research done in a thesis, written by Senator J. B. B. C. M. R. W. D. S. E. (By the way, he's from Illinois.)" He added that while he's never known the Senator's son, he knows we will have to work side by side on this problem.

We have had one problem which remains, and I refer to whether this legislation should be referred to the Committee on Rules and Administration. The entire Government Operations Committee has written the joint leadership asking for fast action on this bill.

The Rules Committee does have jurisdiction over "matters relating to parliametary rules." The budget bill makes changes in the parliamentary rules of the Senate. These changes have been extremely carefully considered by the Budgeting Subcommittee and the full Government Operations Committee, with full advice from Senate legislative counsel.

If there is a need for refinement or technical corrections of the bill's changes in the rules, these can always be made after the bill is passed. The Senate minority leader and the ranking Republican on the Rules Committee, Senator Cook, agree that the Senate should act on the bill before Christmas and that it should receive further consideration by the Rules Committee.

I, therefore, turn with a sense of urgency to the majority leadership now and ask the question: What can be done to put this legislation on the floor of the Senate so that we can act on it this year? We are not as urgent as the Senate that foregathered in Plowden's time to work with a dead level best. There has been a long, hard battle with end runs around the apple and the orange. For the past quarter century, the Congress has engaged in a titanic battle with an adversary it could not defeat.

The chaos of the past few years of federal spending has included, for the first time, a transitional period from horizontal to vertical control of the budget. He got the Secretary, Senator Sam Ervin (D-N.C.), and his staff, including the ablest members of the House and Senate Budget Committees, to work together on this problem. They have not yet resolved their differences, but they have made progress toward the point of decision. The House Rules Committee and the Senate Government Operations Committee are actively trying to draft legislation for floor consideration.

Yet, the leaders of the budget-reform battle talk with various degrees of discouragement about the prospects for action this year. Estimates of its chances range from 50-50 downward.

Interestingly, many of the legislators say their cause has been damaged by Watergate. Senator John M. Stennis (D-Miss.) mentioned "the Watergate thing" in the annual Battle of the Budget, which was Topic A in Washington for the first three months of the year. While the complicating drama of Nixon, Agnew, Haldeman, Ehrlichman and Mitchell is currently being played before the public, the Watergate hearings may also be of towering importance to the American people, but the issue lacks the immediate political magnetism that Watergate has. There is a great deal of interest in the companion bill, and the Senate and House bills that are scheduled for consideration in December. Yet if a workable bill can be passed, and if the two chambers can agree on a major pending bill, Congress may be back in the saddle again.

The matter is of towering importance to the American people, but the issue lacks the immediate political magnetism that Watergate has. There is a great deal of interest in the companion bill, and the Senate and House bills that are scheduled for consideration in December. Yet if a workable bill can be passed, and if the two chambers can agree on a major pending bill, Congress may be back in the saddle again.

The chaos of the past few years of federal spending has included, for the first time, a transitional period from horizontal to vertical control of the budget. It was the dramatic evidence of that shift of power, symbolized by Mr. Nixon's bold use of his personal authority, that launched us into the battle talk with varying degrees of discouragement. It was the Watergate scandal, for many, that made Mr. Nixon's position since March irresistible. Congress has been struggling with a problem as important as the Watergate hearings Tuesday. It is the problem of whether this legislation can be passed.

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Ms. HARRY F. BYRD, JR. Mr. President, I want to associate myself with what the able Senator from Illinois and the able Senator from North Carolina have said. In my judgment, next to the energy crisis, the most important problem confronting this country is whether or not the Congress of the United States is going to have the hardiness and the courage to take effective steps to prevent an unbridled appropriation of money by the Congress. The Federal Government has labored very hard to bring forth a bill which would establish an effective congressional budgetary system. This bill was reported to the Senate by a Senate unanimous majority (Mr. Com­mittee on the 8th day of November, as I recall, it is an effective bill, and it is a bill which I think is stronger to accom­plish and which the House has approved and which is actioning action by the House.

I think that virtually every remaining legislative task, except those dealing solely with the energy crisis is of sub­ordinate importance to the passage of this bill by the Senate.

I would urge the leadership and I would urge the Rules Committee to take effective action to permit this bill to come before the Senate during the closing days of this session, not until later.

If we do not act now, that bill will be lost. It is an effective bill, and it is a bill which has been approved by the House of Representatives but is awaiting action by the House.

It is an admirable goal, but seeing is believing. The day will come when politicians turn into statesmen and no alche­mist yet has perfected that conversion. Even so, a new spirit seems to be working on Capitol Hill. All of us have now emerged from committee. The problem in coming weeks is to get through the floor, and to write some sensible controls into law.

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

Mr. HARRY F. BYRD, JR. Mr. President, normally I should yield to the distinguished Senator from West Virginia, but first I want to say I too, feel this is a very important measure, a measure that should be considered by the Senate at the earliest possible time. I think it is important that a ceiling be put on Government spending. I think it is important that Congress reform and revise its budgetary procedure. I think the pro­cedures are outmoded and outdated and that we should move into the 20th century with our procedures.

Mr. ROBERT C. BYRD and Mr. ERVIN, the Chair.

Mr. HARRY F. BYRD, JR. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I will attempt to respond, but before I do, perhaps the Senator from North Carolina ought to make a statement.

The PRESIDING OFFICER. The Senator from North Carolina was seeking the floor, the Chair, on his time.

Mr. HARRY F. BYRD, JR. Mr. President, I yield.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HARRY F. BYRD. Mr. President, I want to echo what the distinguished Senator from Illinois and the distinguished Senator from Virginia have said. In my judgment, next to the energy crisis, the most important problem confronting this country is whether or not the Congress of the United States is going to have the hardiness and the courage to take effective steps to prevent an unbridled appropriation of money by the Congress. The Federal Government has labored very hard to bring forth a bill which would establish an effective congressional budgetary system. This bill was reported to the Senate by a Senate unanimous majority (Mr. Commit­tee on the 8th day of November, as I recall, it is an effective bill, and it is a bill which I think is stronger to accom­plish and which the House has approved and which is actioning action by the House.

I think that virtually every remaining legislative task, except those dealing solely with the energy crisis is of sub­ordinate importance to the passage of this bill by the Senate.

I would urge the leadership and I would urge the Rules Committee to take effective action to permit this bill to come before the Senate during the closing days of this session, because, as I say, outside of legislation relating to the energy crisis, there is little opportunity for legislation confronting the Congress.

We are never going to have a sound fiscal system in this country until Congress adopts a plan such as that set forth in the President's message. Congress will know, each time it undertakes to pass an appropriation bill and each time it undertakes to pass an authorization bill, just exactly what the impact of that authorization bill and that appropriation bill is going to be, and the financial resources of the Nation as a whole.

I just think that if it is necessary, we should sidetrack other pieces of legislation to do that and permit this bill to come before the Senate during the closing days of this session, because, as I say, outside of legislation relating to the energy crisis, there is little opportunity for legislation confronting the Congress.

So no effort was made to send that legislation to the Committee on Rules and Administration. And if additional consideration had been given at that point, we would not now look back at that action by the Senate with some misgivings.

I am not denigrating that act. A lot of excellent work went into that. But it was not done, and it is a mistake. The Committee on Rules and Administration should have given it consideration. And if additional consideration had been given at that point, we would not now look back at that action by the Senate with some misgivings.

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Mr. PERCY. Mr. President, if the Senator will yield at that point, this was not a new item. Congress has worked on this for years.

Mr. ROBERT C. BYRD. The Senator is correct. However, it is new to the Committee on Rules and Administration.

Mr. PERCY. The Committee on Rules and Administration was certainly aware that it has been in the work for 3 weeks nothing has been

And certainly the Government Operations Committees feel that it is not necessary to send it to the Committee on Rules and Administration.

We would like to report the bill on November 8 with a limited time period to look at it. However, they were bogged down at that time with the Vice President situation, and I had simply feel that this was a matter of such urgency, with the House being able to handle it and with the minority being able to look at it and work it out— and so if we find that there is an insurmountable situation involved, I would be the first to acknowledge it—that we do not want it done in haste. This is an act worked out

with a great deal of give and take on both sides and with a unanimous report of the committee due to the many differences we have had.

It has gone through the whole process. I cannot, for the life of me, see why we cannot do it some time on it. I think the Committee on Rules ought to spend some time on it but get it back to the floor of the Senate promptly, so that we may see whether we can move expeditiously and put some consideration on this bill.

Mr. PERCY. Mr. President, it is a matter of regret to the Senator from Illinois that for 3 weeks nothing has been done. The bill that I introduced would have "crashed" it through. We have held long sessions and have even held night sessions. We are ready to have it considered. Nothing has changed. The Attorney General, with removal by the Advisory General only for neglect of duty, malfeasance in office, or a violation of the act by the Special Prosecutor. Before such removal could occur the Attorney General would have to notify both Houses of Congress 30 days in advance of such removal, stating the reasons for dismissal. The district courts would have original jurisdiction of any action brought for removal or attempted removal and could issue an order blocking such removal, if appropriate.

Those are the terms of the removal power in that legislation, and I think it makes it perfectly clear that the only removal power relating to a special prosecutor under the cases as they presently stand on the books under the prosecutor under the act as they presently stand on the books under the act would be in accordance with those provisions, giving Congress 30 days to act, and Congress 30 days in which to issue an order, if the cause for removal were other than those set out in the act.

I yield back the remainder of my time.

The PRESIDENT. Is there further morning business?

Mr. MOSS and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDENT. Mr. Moss, Mr. President, did the Senator from West Virginia wish me to yield to him?

Mr. ROBERT C. BYRD. No, Mr. President; I can take care of the calendar later.

AMERICAN INDUSTRY HAS BEEN WEARING BLINDERS

Mr. MOSS. Mr. President, last week sent me a particularly appropriate- and thought-provoking
letter. Mr. Lawrence Sheppick of Salt Lake City asked why both the car manufac­turers and Government can be ignoring available improvements to increase automobile gas mileage. I consider Mr. Sheppick’s question “right on target. A Treasury Department study recently completed indicates that utilizing available technology, mileage on American automobiles could be increased an average of 75 percent. Why have not improvements been made? The answer is simply that improvements would add hundreds of dollars to the cost of the heavier new cars. When gasoline was plentiful and cheap there appeared to be little incentive to make mileage improve­ments.

The current fuel crisis has shown how unfortunate such an approach was. The fuel crisis has also made it mandatory that we quickly take advantage of available approaches to increase automobile efficiency.

For this reason, 5 months ago, I intro­duced S. 2036, a bill designed to increase automobile efficiency. My bill placed a levy on the sale of new cars based on mileage.

The Treasury study I previously men­tioned provided added information on the extent required to motivate automobile manufacturers to improve mileage on new cars. The study calcu­lated the cost of gasoline saving improve­ments on various weights of auto­mobiles. It calculated a uniform mileage of 20 miles per gallon. Naturally the cost would be highest on the heaviest cars. The lightest American cars would require no improvements since they already achieve 20 miles per gallon or more.

Accordingly, I have modified the levy schedule of S. 2036 to that shown in the Treasury study:

I, together with my colleagues Senator Pritchett and Senator Nelson, am submitting as an amendment to H.R. 8214 an amendment to the Internal Revenue Code of 1954 to provide a levy on the sale of new automobiles to be imposed on the sale of a uniform mileage of 20 miles per gallon. Naturally the cost would be highest on the heaviest cars. The lightest American cars would require no improvements since they already achieve 20 miles per gallon or more.

I am convinced that with the right in­centives to apply our available technol­ogy we can have both the comfortable cars and the full mobility we have enjoyed in the past.

Hobart Rowen in his column for today said, “The Nation’s being ill-served by half-baked measures’ to cope with the energy crisis.”

At the same time, American industry has shown that it, too, has been wearing blind­ers. In Detroit, where the chief executives have haul down anywhere from $440,000 a year (Chrysler’s Lynn Townsend) to $875,000 (Henry Ford, for his efforts, the auto companies have been caught fast, with huge inventories of gas-guzzling monsters. As a result, auto stocks are plunging and thousands of people who were looking for a job that needn’t have come if the top men had really earned their plump salaries.

Michael Evans, President of Chase Econometric As­sociates, Inc. puts this letter point as well and as bluntly as anyone: the market share of standard-size cars fell 7 percent last year, which is as much as it had risen during the previous seven years. These facts simply could not have been a secret from executives to an industry which has more daily and weekly data than any other.

I personally know of several instances where middle management argued strenu­ously that, in their view, such improvements should be reoriented toward small cars. Yet this argument fell mostly on deaf ears at the top because the lower leyer’s absolute dis­parity from GM was based on more than long boring staff meetings.

COMMUNICATIONS FROM EXECU­TIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid be­fore the Senate the following letters, which were referred as indicated:

APPROVAL OF LOAN TO CORN BELT POWER COOPERATIVE, HUMBOLDT, IOWA

A letter from the Administrator, Rural Electrification Administration, U.S. Depart­ment of Agriculture, pursuant to a request for information in Senate Report No. 497, Department of Agriculture and Re­lated Agencies Appropriations Bill, 1974, the approval of a loan to Corn Belt Power Cooperative of Humboldt, Iowa, to finance in­creased construction of generation and trans­mission facilities. Referred to the Committee on Appropriations.

REPORT OF DEPARTMENT OF STATE

A letter from the Acting Secretary, Depart­ment of State, transmitting, pursuant to law, a report on U.S. Contributions to Interna­tional organizations for fiscal year 1973 (with an accompanying report). Referred to the Committee on Foreign Relations.

REPORT OF NATIONAL ADVISORY COUNCIL ON EDUCATIONAL PROFESSIONS DEVELOPMENT

A letter from the Chairman, National Advisory Council on Educational Professions Development, transmitting, pursuant to law, an accompanying report. Referred to the Committee on Appropriations.

REPORT OF NATIONAL ADVISORY COUNCIL ON EDUCATIONAL PROFESSIONS DEVELOPMENT

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, amendments to the above mentioned bill, for construction of a new Post Office, Courthouse, Federal Building for Auburn, N.Y. Refer to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.R. 8449. An act to expand the national flood insurance program by substantially in­creasing limits of coverage and total amount of insurance authorised to be outstanding and by requiring known flood-prone commu­nities to carry flood insurance, and for other purposes (Rept. No. 93-586), together with additional views.

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 1976. A bill to study an Indian nations trail within the national trails system (Rept. No. 93-584).

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

H.R. 3486. An act to provide for the con­

vocation of certain mineral rights in and un­der lands in Onslow County, N.C. (Rept. No. 93-585).

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

S. 1468. A bill to authorize the establish­ment of the Knife River Indian Villages Na­tional Monument (Rept. No. 93-588).

By Mr. FANNIN (for Mr. Evans), from the Committee on Interior and Insular Affairs, with amendment:

S. 417. A bill to amend the act of June 28, 1948, to provide for the addition of certain property in Philadelphia, Pa., to Independ­ence National Historical Park (Rept. No. 93-567).

By Mr. EVIN, from the Committee on Government Operations, with amendments:


INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolu­tions were introduced, read the first time, and referred to their respective committees:

By Mr. PELL (for himself and Mr. JACKSON):

S. 2754. A bill to prohibit all military assist­ance to Greece until it is determined that Greece is fulfilling its obligations under the North Atlantic Treaty. Referred to the Committee on Foreign Relations.

By Mr. DOMENICI:

S. 2755. A bill to require the Administrator of the National Aeronautics and Space Ad­ministration to study the feasibility of enter­ing into certain international cooperative programs involving the utilization of space technology and applications. Referred to the Committee on Aeronautical and Space Sciences.

By Mr. HUGH SCOTT (for himself and Mr. PERRY):

S. 2766. A bill to provide health care in­sur­ance for people of the United States and to improve the availability of health serv­ices, and for other purposes. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL (for himself and Mr. JACKSON):

S. 2754. A bill to prohibit all military assistance to Greece until it is deter­mined that Greece is fulfilling its obligations under the North Atlantic Treaty. Referred to the Committee on Foreign Relations.

By Mr. PELL, Mr. President, hardly had the sound of firing and the rumble of tanks subsided in the wake of former President Papadopoulos’ bloody suppres­sion of the defenders of Greek freedom, when a military coup toppled him from power. Although the situation following the coup is still murky, it does seem clear that the new regime is determined to move away from rather than toward the reestablishment of democratic govern­ment and the rule of law in Greece. Con­tinuation for the time being of a mili­tary dictatorship thus seems inevitable, dashing any American hopes for the con­trary.

It is reported that one reason for Pana­dopoulos’ downfall was the rejection of moderate elements of the Greek military against the harsh and violent measures
used to quell the uprising. Hopefully these conservative, but more democratic members of the military will have a voice in the direction of the junta and exert a moderating influence.

I do not believe, however, that we can rely alone on this possible development to bring about a change for the better in Greece. Nor do I believe the rising against the junta, in which United States military equipment and tanks were involved. The situation calls, therefore, for a strong U.S. denunciation of the junta's policies and U.S. measures to implement words with action.

Let us examine more closely for a moment the tragic events that have been occurring in Greece. In many respects, these events are reminiscent of the uprising of the people of Hungary in 1956. But it is also understandable. The Greek people—like the people of Hungary—have been suffering from dictatorship and return their country from dictatorship and return it to constitutional democracy. In that struggle, however, the Greek students and workers confronted American-made tanks, turned on the people by their own government.

There is, moreover, another important difference between these two uprisings. In Hungary, the students and workers rebelled against the imposition of a puppet government of the Soviet Union. In Greece, the wrath of the workers and students was directed toward both the Papadopoulos government and toward our own country, the United States.

The cry of the students was "Out with Papadopoulos" and "Out with the Americans."

It is more than sad—it is tragic that the United States should be viewed with such hatred by the people of Greece. But it is also understandable.

For 6 years, the people of Greece have watched the U.S. Government give moral and material support to a Greek regime that has denied democracy, destroyed freedom, and persecuted and tortured its political opponents.

For 6 years, the people of Greece have watched while American admirals and generals made highly publicized public appearances with the admirals and generals of the junta.

For 6 years, the people of Greece have watched while the flow of arms and munitions from the United States to the Greek Government continued unabated.

It is little wonder, with this background, that the people of Greece concluded that their government—a junta of colonels that did not dare face the people in a democratic election—was being supported by the United States.

Several years ago, when I proposed to the Senate the amendment to the Foreign Assistance Act which would have made continued military assistance to Greece dependent on the junta's adherence to the principles of NATO, including respect for democratic institutions and individual freedoms. The Senate, after full debate, adopted that amendment. I regret very much that the committee of conference on that bill struck the amendment from the bill, an action that was at least pleasing to the administration, and in fact largely the result of fierce administration opposition to the amendment.

During debate on that amendment last June, the junior Senator from Washington, an expert on NATO military affairs, said:

"It is just common sense that if the democratic order in Greece continues to be subverted, and the best people, the best professionals they had in their military service forced out, Greece's contribution to NATO will end up at zero."

He continued, I think it is high time that we blow the whistle on the operations of the Greek colonels.

It is now past time to blow the whistle. At this point, I can see no argument for continuing military assistance to a government that has crippled its effectiveness in NATO through unrelenting pursuit of undemocratic, dictatorial government.

In support of this conclusion, let me quote from the excellent report of the Committee of Nine on improving NATO, the recent session of the North Atlantic Assembly in Ankara. Commenting on alliance solidarity, the report states:

"The Committee is convinced that the common interests which brought North America and Western Europe into military alliance and intimate political and economic association continues, and must continue to induce the two sides of the Atlantic to remain together."

These forces consist, first of a common and deep-seated attachment to the ideals of individual liberty, democratic institutions, and the rule of law. The Committee considers it the duty of the states of Western Europe and North America to do all that they can properly to aid in the establishment and maintenance of such conditions. In each of the member-nations. In a period of detente, the preservation of the Western alliance and the public respect which the Alliance itself can command will be profoundly affected by the extent to which member-nations uphold the ideals upon which the Alliance was founded. The failure on behalf of any member to live up to these ideals must inevitably weaken the political and moral position of the Alliance as a whole.

We can only sadly conclude that Greece, under a military dictatorship, is just such a member, when its government uses force of arms to suppress its people, having denied them time and again the promised opportunity to express themselves in democratic elections. Accordingly, I am today introducing a bill which would prohibit military assistance in any form to Greece until such time as it is determined that Greece is fulfilling its obligations under the North Atlantic Treaty with unanimous consent that the text of the bill be printed in the Record at the conclusion of my remarks.

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

S. 2754
Be it enacted by the Senate and House of Representatives of the United States of
America in Congress assembled, That the Congress recognizes that it is the policy of the United States Government to provide military assistance and military sales, credit sales, and guarantees to, or for, the Government of Greece in order to fulfill its obligations under the North Atlantic Treaty, including both adherence to the political principles enunciated in the North Atlantic Treaty organization defense plans. Therefore, no military assistance and no sales, credit sales, or guarantees shall be provided to or for the Government of Greece until the law until the President (1) undertakes a comprehensive review of United States policy. It is not only Oritani, to note that we are not really facing an energy crisis per se but more specifically a petroleum shortage.

I think we all realize and accept the fact that the use of petroleum products will continue to be our most needed source of energy. While, as I have stated, fossil fuels are our most important source of energy, we have now become critically dependent on new supplemental forms of energy. We have known for years that our available petroleum supply has remained relatively constant while our demand has increased and we have experienced the effects of this petroleum shortage. We have just recently passed legislation that will give the President the power to most effectively utilize our present resources. I feel that this was a very important step in meeting our present energy crisis but we must now look to the means by which we will be able to supply this Nation with its future energy needs. This will require an increased utilization of our fossil fuels, which can only be accomplished by cooperation between the Government and private enterprise. This joint effort to produce maximum quantities of energy resources must be done in a manner that will not harm our environmental quality. I will be the first to admit that this is a difficult problem but I am confident that with the support of this body and our Government we may achieve these goals.

I believe it is important to remind ourselves that the countries of Western Europe and Japan are also sharing in a petroleum shortage. These countries do not possess the capabilities to produce their needed petroleum resources and therefore, they have found the possibility of an oil embargo a serious threat to their economy.

As a member of the Aeronautical and Space Sciences Committee, I have recently heard testimony as to the utilization of solar energy as a possible supplemental form of energy. We have small communities today that are heated and cooled by solar energy from the sun. The National Science Foundation and the National Aeronautics and Space Administration are investigating the possibilities of building large solar arrays in space that would beam solar energy to Earth. I feel that these and other uses of solar energy could possibly be an excellent supplemental form of energy to be used in the future.

It was during these hearings that I realized the possible benefits from an international cooperative R. & D. effort to explore the possibilities of utilizing solar energy. I feel that, as countries involved could mutually benefit from a pooling of R. & D. as to how solar energy might be used as a supplemental form of energy. I am therefore introducing a bill today that would require the Administrator of the National Aeronautics and Space Administration to work in conjunction with the Secretary of State, Secretary of Defense, and the Director of the National Science Foundation to make a full and complete study of the possibilities for international cooperation and complete study of the possibility of utilizing space technology and application for the conversion of solar energy.

The bill would call for the Administrator of the National Aeronautics and Space Administration to work in conjunction with the Secretary of the State, Secretary of Defense, and the Director of the National Science Foundation to make a full and complete study of the desirability for international cooperation and cost sharing in the development of a system for the collection and conversion of solar energy, to improve the availability of health care, and to improve the availability of health care.

In an effort to remedy this national health crisis, I am happy to introduce this bill today, along with the distinguished Senator from Illinois (Mr. Percy), the Health Rights Act of 1973.

Mr. HUGH SCOTT, Mr. President, reform of the Nation's health care system is a matter of the highest urgency. The financial disaster which a prolonged illness can cause a family is often more tragic and debilitating than the disease itself. We have seen this often in a family with a tragedy of ill health because of the inordinate costs of health care, particularly round-the-clock hospital care which catastrophic illness requires. The results have been disastrous and the consequences calamitous.

In an effort to remedy this national health crisis, I am happy to introduce today, along with the distinguished Senator from Illinois (Mr. Percy), the Health Rights Act of 1973. In essence, our proposal will assure all Americans solid protection against the skyrocketing costs of medical care. It will make a reality of the total comprehensive health care which our Nation deserves.

There is a growing consensus among the American people that reform of our Nation's health delivery system is essential; that improvement in the overall quality of health care is essential; and that action on a national level is essential to make good health care available to all citizens.

The Health Rights Act of 1973 will replace medicare and medicaid, and will allow all citizens, regardless of age, income, or family size, to be eligible to participate. The act is a two-part plan providing both inpatient "major illness"
The removal of the barriers to preventive care;

The protection of every American family against the devastating costs of catastrophic illness by placing a ceiling on the maximum out-of-pocket expenses a family will have to pay for health care;

The provision of incentives to produce voluntary actions toward the development of a more efficient health care delivery system, drawing on the private enterprise system and assuring a Federal private partnership in health care.

Obviously, new programs, however worthy, cannot be allowed to run up a budget deficit at a time when economic conditions call for fiscal restraint. While the "ability to pay" concept of the Health Rights Act creates a substantially smaller drain on Federal revenues than similar national health proposals, its cost is necessarily significant. The Department of Health, Education and Welfare estimates that the Medicare and Medicaid-related provisions of the Health Rights Act of 1973 will bring this figure down to under $22 billion per year. We estimate that improvements in the administrative and cost control provisions of the Health Rights Act of 1973 will bring this figure down to under $22 billion per year. We accordingly, as soon as actuarial determinations which we have requested from the Treasury Department and the Social Security Administration are available - we will make specific proposals as to how the Health Rights Act could be financed if adopted as now drafted. In addition, we will insist that any national health insurance program be fully financed, as is required for un-budgeted spending proposals under S. 1541, the Congressional Budget Reform Act.

Mr. President, national health insurance will not solve all our health care problems, but it will go a long way toward providing every American the right to adequate health care. The assurance that comprehensive health care will be furnished to all Americans, the young and the old, as a right and at a cost to society which is related to the financial capability of the individual, is an essential change for the future of our nation. A country can boast no greater resource than a healthy people.

Exhibit 1

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

TITLE 1—ADMINISTRATIVE AND GENERAL PROVISIONS DEFINITIONS, ETC.

Sec. 101. For the purposes of this Act—

-ingent Hospital Services

(a) The term "inpatient hospital services" means the following items and services furnished to an inpatient of a hospital and (except as provided in paragraph (b) by the hospital—

(1) bed and board;

(2) such nursing services and other related services, such use or hospital facilities, and such medical-social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, including the use of drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by such hospitals for the care and treatment of inpatients, including the use of equipment for renal dialysis.

(b) Such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them
made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements;

(4) professional services furnished by a physician, resident, or intern;

(5) medical or surgical services provided by a hospital, or by other private-duty attendants, when certified by the attending physician as necessary.

Inpatient Psychiatric Hospital Services

(b) The term "inpatient psychiatric hospital" means a hospital where mentally ill patients are under an active program of diagnosis or treatment by a psychologist or psychiatrist.

Inpatient Tuberculosis Hospital Services

(c) The term "inpatient tuberculosis hospital service" means inpatient hospital services in a hospital where patients are under the care of a physician.

Hospital

(d) The term "hospital" means an institution which-

(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons; (2) maintains clinical records on all patients;

(3) has bylaws in effect with respect to its staff of physicians;

(4) has a requirement that every patient must be under the care of a physician;

(5) provides twenty-four-hour nursing service rendered or supervised by a registered professional nurse and has a licensed practical nurse or registered professional nurse on duty at all times;

(6) has in effect a hospital utilization review plan which meets the requirements of section 105;

(7) in the case of an institution in any State which has any applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved by a local law agency responsible for licensing hospitals, as meeting the standards established for such licensing; and

(8) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution, except that such other requirements may not be higher than the comparable requirements prescribed for the accreditation of hospitals by the Joint Commission on Accreditation of Hospitals.

Psychiatric Hospital

(e) The term "psychiatric hospital" means an institution which-

(1) is primarily engaged in providing, by or under the supervision of a doctor of psychology or a doctor of psychiatry, psychiatric services for the diagnosis and treatment of mentally ill persons;

(2) has a requirement that every patient be under the care of a psychologist or psychiatrist;

(3) has bylaws in effect with respect to its staff of psychologists or psychiatrists;

(4) maintains clinical records on all patients;

(5) has bylaws in effect with respect to its staff of psychologists or psychiatrists;

(6) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to hospital insurance benefits under title II; (6) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(7) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "psychiatric hospital" if it is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

Tuberculosis Hospital

(f) The term "tuberculosis hospital" means an institution which-

(1) is primarily engaged in providing, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis;

(2) satisfies the requirements of paragraphs (3) through (6) of subsection (d);

(3) maintains clinical records on all patients and such such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals covered by the insurance program established by title II; (4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "tuberculosis hospital" if it is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

Secondary Care Facility

(g) The term "secondary care facility" means the following items and services furnished to an inpatient of a secondary care facility (as defined in subsection (j)) by such secondary care facility-

(1) skilled nursing care provided by or under the supervision of a registered professional nurse;

(2) bed and board in connection with the furnishing of such nursing care;

(3) physical, occupational, or speech therapy furnished by the secondary care facility; (4) medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (as defined in subsection (l)), under a teaching program of such hospital approved as provided in the last sentence of the two preceding paragraphs; (5) diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect; and

(6) such other services as necessary to the health of the patients as are generally provided by secondary care facilities; (excluding, however, any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital.)

(h) The term "secondary care facility" means an institution (or a distinct part of an institution) which has in effect a transfer agreement (as defined in subsection (1)) with one or more hospitals and which-

(1) is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons; (2) has policies, which are developed with the advice of such a review of such policies from time to time by a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides; (3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies; (4) (A) has a requirement that the health care of every patient must be under the supervision of a physician, and (B) provides for having a physician furnish necessary medical care in case of emergency; (5) maintains clinical records on all patients;

(6) provides twenty-four-hour nursing service which is sufficient to meet nursing needs in accordance with such physician's developed as provided in paragraph (2), and has at least one registered professional nurse employed full time;

(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals; (8) has in effect a utilization review plan which meets the requirements of section 105; (9) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(10) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in such institution or receiving the services referred to therein as the Secretary may find necessary; except that such term shall not include any institution which is primarily for the care and treatment of mental diseases or tuberculosis.

Agreements for Transfer Between Secondary Care Facilities, Hospitals and Home Health Agencies

(1) A hospital, secondary care facility, and a home health agency shall be considered to have a transfer agreement in effect if

(2) the reason of a written agreement between them or (in case the institutions are under common control) by reason of a written understanding by the persons who control them, there is reasonable assurance that-

(1) transfer of patients will be effected between them whenever such transfer is medically appropriate as determined by the attending physician;

(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals who are transferred, or if, in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

The Secretary of Health, Education, and Welfare, and home health agency which does not have such an agreement in effect, but which is found by the Secretary to have attempted in good faith
to enter into such an agreement where geographically feasible, shall be considered to have such an arrangement in effect if such an arrangement is so long as the Secretary finds that to do so is in the public interest and essential to assuring the availability of such services to individuals in the community who are eligible for payments with respect to such services under this title.

Home Health Services

(1) The term “home health services” means the following items and services furnished under arrangements with one or more physicians, by a home health agency, at a hospital or secondary care facility, or by a public health agency, at a hospital or secondary care facility, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services, as excepted as provided in paragraph (6), provided on a visitation basis in a place of residence used as such individual’s home—

(a) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(b) physical, occupational, or speech therapy;

(c) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

(d) medical supplies (other than drugs and biologicals), and the use of medical appliances, furnished in the hospital, medical services provided by an intermediary or in-partnership-in-trust arrangement of such hospital, under a teaching program of such hospital approved as provided in the last sentence of section 1861(r);

(2) any of the foregoing items and services which are provided on an outpatient basis, under arrangements with a hospital, medical services provided by a teaching hospital, under a teaching program of such hospital, and such program meets standards prescribed by the Secretary, to individuals as an out-patient of a hospital, or in the home of such individual, and

(A) the furnishing of which involves the use of equipment of such a nature that the items and services may be readily made available to the individual in such place of residence, or

(B) which are furnished at such facility while he is there to receive any such item or service described in clause (A), but not including inpatient care in connection with any such item or service; excluding, however, any item or service if it would not be included under subsection (a) if furnished by a hospital.

Post-Inpatient Home Health Services

(1) The term “post-inpatient home health services” means home health services furnished an individual within one year after his most recent discharge from a hospital of which he was an inpatient or (if later) within one year after his most recent discharge from a hospital of which he was an inpatient entitled to payment under title II, but only if the plan covering the home health services provided by such individual established and periodically reviewed by a physician, which items and services are furnished by a home health agency, at a hospital or secondary care facility.

Home Health Agency

(1) The term “home health agency” means a public agency or private organization, or a subdivision of such an agency or organization, which—

(a) is primarily engaged in providing skilled nursing services and other therapy services;

(b) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(2) maintains clinical records on all patients;

(3) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of home health agencies, is licensed pursuant to such law, or (B) is approved by the agency of such State or by an agency of any licensing or reviewing organizations of this nature, as meeting the standards established for such licensing; and

(4) meets such other conditions relating to the health and safety of individuals who are furnished services by such an agency or organization, as the Secretary may find necessary.

Physician

(1) The term “physician” means—

(a) a doctor of osteopathy or medicine legally authorized to practice medicine and surgery as provided in section 501; and

(b) a doctor of chiropractic or osteopathy, but only to the extent that the services of such optometrist, podiatrist or chiropractor would be covered services when performed by a physician under this Act and where the services of the optometrist, podiatrist or chiropractor is licensed to perform such services as provided in this Act.

Nondiagnostic Medical Examination

(1) The term “nondiagnostic medical examination” means examination of an outpatient by a physician or by another medical or paramedical personnel under a physician’s direction, to determine whether an undetected disease condition exists.

Medical and Other Health Services

(p) The term “medical and other health services” means any of the following items or services provided for the diagnosis, treatment or rehabilitation of a patient:

(1) physicians’ services;

(2) (A) services and supplies (including drugs and biologicals, which are determined in accordance with regulations, is self-administered) furnished as an outpatient by a provider of such services who is under the care of a physician, and is periodic in nature; and

(B) diagnostic services which are—

(i) furnished to an individual as an outpatient by a hospital or by others under arrangements with such hospital, and

(ii) ordinarily furnished by such hospital (or by others under such arrangements) to its outpatients for the purpose of diagnostic study;

(3) diagnostic X-ray tests (including tests performed by a supervising physician, furnished in a place of residence used as the patient’s home, if the performance of such tests meets the regulations relating to health and safety as the Secretary may specify);

(4) diagnostic laboratory tests, and other diagnostic tests;

(5) prosthetic devices (other than dental) which replace all or part of an internal body organ, including replacement of such devices; and

(6) durable medical equipment, including iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient’s home, whether furnished on a rental basis or purchased.

(7) ambulance service where the use of other methods of transportation is contraindicated by the nature of the patient’s condition, but only to the extent provided in regulations;

(8) prosthetic devices (other than dental) which replace all or part of an internal body organ, including replacement of such devices; and

(9) leg, arm, back, and neck braces, and artificial legs.

(10) diagnostic tests performed in a laboratory by the supervisor of a physician or by another medical personnel under the physician’s direction, and

(11) such laboratory meets such conditions relating to the health and safety of individuals...
...with respect to whom such tests are performed as the Secretary may find necessary. There shall be excluded from the diagnostic services specified in paragraph (2) (C) any items of services, and the rates of services referred to in paragraph (1) which—

(i) would not be included under subsection (b) if such services were furnished to an inpatient of a hospital; or

(ii) is furnished under arrangements referred to in such paragraph (2) (C) where the hospital, or other facilities operated by or under the supervision of the hospital or its organized medical staff.

Notwithstanding any other provisions of law, in determining costs proves to be either inadequate or excessive.

(b) Where a provider of services which has an agreement in effect under this Act furnishes to an individual items or services which are in excess of or more expensive than the items or services with respect to which such payment may be made under part A or part B, as the case may be, the Secretary shall take into account for purposes of payment to such provider of services only the equivalent of the reasonable cost of the items or services with respect to which such payment may be made.

(c) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or semi-private accommodations furnished as inpatient hospital services and the use of such other accommodations other than, but not more expensive than, semi-private accommodations was neither at the request of the patient nor for a reason which the Secretary determines is consistent with the purposes of this Act, the amount of the payment with respect to such hospital services shall be reduced by the reasonable cost of such bed and board furnished as semi-private accommodations (determined pursuant to paragraph (1)) minus the difference between the charge customarily made by the hospital or extended care facility for bed and board in semi-private accommodations and the charge customarily made by it for bed and board in the accommodations furnished.

(d) For purposes of this subsection, the term "semi-private accommodations" means two-bed, three-bed, or four-bed accommodations.

Family

(1) The term "family" means—

(A) two or more individuals—

(1) who are related by blood, marriage, or adoption, and

(2) who are living in a place of residence maintained by one or more of them as his or their home, but excluding any adult individual who—

(i) is not a dependent of any other such individuals; and

(ii) does not provide more than 50 cents per centum of the economic support of any other such individuals; or

(B) an adult individual who is not included as a member of any family under subparagraph (A) or

(C) any individual who is not included as a member of any family under paragraph (A) or (B).

(2) For purposes of paragraph (1) (A) (ii), the term "child" means a person under eighteen years of age; and

(3) The term "adult" means a person over eighteen years of age.

The term "family income" means the sum of the adjusted gross income for all family members, as defined by section 62 of the Internal Revenue Code of 1954, and any other cash income received which is otherwise taken into account under this Act, except that the family income is $3,000 or less, then 10 per centum of the annual per person family income is considered to be the total family income divided by the family size percentage.

The term "family size percentage" means:

(1) in the case of a family consisting of one adult, 1.25;

(2) in the case of a family consisting of one adult, plus spouse or one dependent, 1.50;

(3) in the case of each additional dependent, 0.50.

(aa) The term "State" means the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. The term "United States", when used in a geographic sense, means all the States as defined in this subsection.

(bb) The term "medical care institutions" means hospitals, nursing homes, semi-private accommodations furnished to an individual items or services if furnished in such circumstances as are necessary relating to health and safety of individuals with respect to whom such items and services are furnished.

Reasonable Cost

(1) The reasonable cost of any services shall be determined in accordance with regulations prescribed by the Secretary. Such regulations may provide for the use of estimates of costs of particular items or services, or such other methods of determining costs, the costs with respect to individuals covered by the insurance programs established by the latter shall be determined in such circumstances as are necessary relating to health and safety of individuals with respect to whom such services are furnished, but in no event shall such costs be less than the costs with respect to individuals covered by the insurance programs established by this Act, except that no cost shall be included unless such other conditions are met as the Secretary may find necessary relating to health and safety of such recipients by such providers. Such regulations may provide for the use of estimates of costs of particular items or services, or such other methods of determining costs.

(2) For purposes of this subsection, the term "reasonable cost of the items or services referred to in paragraph (1) which are furnished to an individual items or services if furnished in such circumstances as are necessary relating to health and safety of such recipients by such providers. Such regulations may provide for the use of estimates of costs of particular items or services, or such other methods of determining costs, the costs with respect to individuals covered by the insurance programs established by the latter shall be determined in such circumstances as are necessary relating to health and safety of individuals with respect to whom such services are furnished, but in no event shall such costs be less than the costs with respect to individuals covered by the insurance programs established by this Act, except that no cost shall be included unless such other conditions are met as the Secretary may find necessary relating to health and safety of such recipients by such providers. 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Such regulations may provide for the use of estimates of costs of particular items or services, or such other methods of determining costs, the costs with respect to individuals covered by the insurance programs established by the latter shall be determined in such circumstances as are necessary relating to health and safety of individuals with respect to whom such services are furnished, but in no event shall such costs be less than the costs with respect to individuals covered by the insurance programs established by this Act, except that no cost shall be included unless such other conditions are met as the Secretary may find necessary relating to health and safety of such recipients by such providers. Such regulations may provide for the use of estimates of costs of particular items or services, or such other methods of determining costs, the costs with respect to individuals covered by the insurance programs established by the latter shall be determined in such circumstances as are necessary relating to health and safety of individuals with respect to whom such services are furnished, but in no event shall such costs be less than the costs with respect to individuals covered by the insurance programs established by...
Sec. 103. (a) In carrying out his functions under this Act, the Secretary shall—

(1) establish such geographical regional areas as he deems necessary for the efficient administration of this Act;

(2) contract with an insurance carrier or public or private administrative intermediary within the United States to enter into agreement with any Federal, State, local, or private health care service utilizing the services of persons who may be engaged in the medical care delivery system or otherwise contribute to the delivery of medical care services in the area served by such organization; 

(3) promulgate such rules, regulations, and procedures, in accordance with section 553, title 5, United States Code, as he deems necessary for the efficient administration of this Act; and

(4) appoint and fix the compensation of such personnel he deems necessary in accordance with title 5, United States Code;

(5) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 per day for individuals;

(6) promulgate such rules, regulations, and procedures, in accordance with section 553, title 5, United States Code, as he deems necessary for the efficient administration of this Act; and

(7) request such information, and reports, from any Federal agency as the Director determines is necessary, and as may be produced consistent with other law;

(8) request such information, and reports, from any Federal agency as the Director determines is necessary, and as may be produced consistent with other law;

(9) with approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions under this Act;

(10) enter into and perform such contracts (including those entered into pursuant to paragraph (2)), leases, cooperative agreements, or other transactions, in the conduct of his functions consistent with the purposes of this Act, in accordance with section 3848 of the Revised Statutes (51 U.S.C. 299).

(b) Notwithstanding any other provision of law, the Secretary is authorized, solely for the purpose of providing or confirming eligibility for benefits under this Act, to examine the records of any Federal office which directly pertains to such examination, and the records of any Committee of the Senate or of the House of Representatives, to determine the benefit eligibility of a family, not more often than bi-annually, where he has reason to believe that circumstances have changed and that those changed circumstances have resulted in a change in the health cost ceiling of a family.

(c) A family shall request a review of its benefit eligibility prior to utilizing benefits under this Act whenever there has been a change of circumstances which would result in a change in the health cost ceiling of a family.

(d) Compensation shall be paid to any insurance carrier or administrative intermediary, if required to perform any of its functions hereunder, at rates determined by the Secretary as necessary for the efficient administration of this Act.

Sec. 104. Section 1163 of the Social Security Act and paragraph (1) of section 1166(b) of such Act are amended to read as follows:

"Sec. 1165. The Secretary shall by regulations provide for such correlation of activities, and other provision for such correlation, that the services provided under this Act and which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their professions within the area served by such organization;"

"(b) Section 1165 of the Social Security Act is amended to read as follows:

"Sec. 1165. The Secretary shall by regulations provide for such correlation of activities, and other provision for such correlation, that the services provided under this Act and which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their professions within the area served by such organization;"

"(2) The Committee shall select its own Chairmen, and the Chairmen shall be appointed for three-year terms, except that of the members first appointed, three shall be appointed for terms of one, four shall be appointed for terms of two years, and two shall be appointed for terms of three years, as designated by the President at the time of appointment. Any member appointed by the President to fill a vacancy occurring during the term of any member shall serve only for the remainder of the term, and may be reappointed.

(128) Provisions of the Act, as amended, are hereby stated to be interpreted to mean what is held to be the understanding and intent of those who enacted the same.

(129) Payments in the form of medical and other health services are hereby paid to the United States or to any individual upon being certified, by the Secretary of Health, Education, and Welfare, as being necessary for the medical and other health services provided in accordance with the Act.

TITLE II—INDIVIDUAL HEALTH CARE BENEFITS

PROGRAM ESTABLISHED

Sec. 201. There is hereby established an insurance program to provide insurance benefits, in accordance with the provisions of this title, to persons within the United States for such medical and other health services as are necessary to prevent illness, to ensure the early detection and early treatment of disease, and to facilitate the rehabilitation of such individual.

ELIGIBILITY

Sec. 202. (a) Except as provided in subsection (b) of this section every resident of the United States, and every nonresident citizen thereof, while within the United States, who has, directly or indirectly, procured coverage under title III of this Act, is eligible to receive health care benefits under this Act.

(b) (1) The Secretary is authorized to enter into agreements with foreign governments, international organizations, or any establishment thereof to persons within the United States who are alien employees (as defined in regulations) of a foreign government, for furnishing medical and other health services at the time that such services are performed by such foreign government, except that such services shall be furnished to such foreign government as a foreign government, for furnishing medical and other health services at the time that such services are performed by such foreign government, except that such services shall be furnished to such foreign government for the price, or price not less than the price at which such services are provided to the same individuals in the United States.

SCOPE OF BENEFITS

Sec. 203. (a) Every eligible individual shall be entitled to have payment made on his behalf, or in such situations as the Secretary, to any covered service for which such service is certified necessary and appropriate by the attending physician, dentist, or other health care provider.

(b) Every individual who is eligible for benefits under this title shall be entitled to receive such services under this title as are furnished to any individual who is eligible for such benefits under this title as are furnished to any individual.

PUBLICATION OF ACTIONS

Sec. 204. As a condition precedent to any individual's receiving benefits under this title, such individual must expend for services covered by this title an amount equal to one-half of the family health cost and the family health cost equivalent established as defined in section 101(x) plus an amount equal to 50 per cent of the cost of such services, as estimated by the Secretary of Health, Education, and Welfare, unless such services are performed by the Secretary of Health, Education, and Welfare, in accordance with this title.

(b) No individual shall receive benefits only from the date he becomes entitled to receive benefits under this title.

RECORD-KEEPING AND AUDITING

Sec. 205. (a) Payment for services described in this title shall be made in accordance with such rules and regulations as are promulgated by the Secretary.

(b) The Secretary shall be responsible for the promulgation of such rules and regulations as are necessary for the proper administration of this title.

(c) The Secretary shall be responsible for the promulgation of such rules and regulations as are necessary for the proper administration of this title.

(d) Such rules and regulations as are necessary for the proper administration of this title shall be promulgated by the Secretary, and such rules and regulations as are necessary for the proper administration of this title shall be promulgated by the Secretary, with the approval of the Congress, within three months after the date of the adoption of this title, or within such longer period as the Congress may by law provide.

SEC. 206. (a) There is hereby established a trust fund to be known as the "Trust Fund" to which shall be paid such sums as may be appropriated to, such fund as provided in this section.

(b) There are hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1976, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equal to 100 per cent of the taxes imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1965 with respect to wages reported to the Secretary of the Treasury or his delegate to such fund as provided in this section.

(c) The taxes imposed by section 3101(b) and 3111(b) of the Internal Revenue Code of 1965 with respect to wages reported to the Secretary of the Treasury or his delegate to such fund as provided in this section.

(d) The taxes imposed by section 1401(b) of the Internal Revenue Code of 1965 with respect to self-employment income reported to the Secretary of the Treasury or his delegate to such fund as provided in this section.

SEC. 207. (a) The Secretary shall make such payments as may be necessary to establish, in the several States, medical and other health services for the prevention of illness, for the early detection and early treatment of disease, and for the rehabilitation of individuals who are eligible for benefits under this title, and shall include such payments in the annual statements of the several States to the Secretary.

(b) Such payments as may be necessary to establish, in the several States, medical and other health services for the prevention of illness, for the early detection and early treatment of disease, and for the rehabilitation of individuals who are eligible for benefits under this title, and shall include such payments in the annual statements of the several States to the Secretary.

SEC. 208. (a) The Secretary shall make such payments as may be necessary to establish, in the several States, medical and other health services for the prevention of illness, for the early detection and early treatment of disease, and for the rehabilitation of individuals who are eligible for benefits under this title, and shall include such payments in the annual statements of the several States to the Secretary.

(b) Such payments as may be necessary to establish, in the several States, medical and other health services for the prevention of illness, for the early detection and early treatment of disease, and for the rehabilitation of individuals who are eligible for benefits under this title, and shall include such payments in the annual statements of the several States to the Secretary.

SEC. 209. (a) The Secretary shall make such payments as may be necessary to establish, in the several States, medical and other health services for the prevention of illness, for the early detection and early treatment of disease, and for the rehabilitation of individuals who are eligible for benefits under this title, and shall include such payments in the annual statements of the several States to the Secretary.

(b) Such payments as may be necessary to establish, in the several States, medical and other health services for the prevention of illness, for the early detection and early treatment of disease, and for the rehabilitation of individuals who are eligible for benefits under this title, and shall include such payments in the annual statements of the several States to the Secretary.

SEC. 210. (a) The Secretary shall make such payments as may be necessary to establish, in the several States, medical and other health services for the prevention of illness, for the early detection and early treatment of disease, and for the rehabilitation of individuals who are eligible for benefits under this title, and shall include such payments in the annual statements of the several States to the Secretary.

(b) Such payments as may be necessary to establish, in the several States, medical and other health services for the prevention of illness, for the early detection and early treatment of disease, and for the rehabilitation of individuals who are eligible for benefits under this title, and shall include such payments in the annual statements of the several States to the Secretary.
the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(1) The Managing Trustee is directed to pay from time to time from the Trust Fund the amounts determined by him as taxes imposed under section 3101(b) which are subject to refund after June 30, 1975. Such taxes shall be determined on the basis of the records of the Internal Revenue Code of 1954, and the Secretary of the Treasury shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(2) Repayments made under paragraph (1) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimated tax liability for any particular period was too high or too low, appropriate adjustments shall be made by the Secretary of the Treasury.

(g) The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as may be necessary to establish the Trust Fund, and Welfare certificates are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses of the Trust Fund.

(h) There are hereby transferred to the Trust Fund all assets and liabilities of the Federal Hospital Insurance Trust Fund established by section 1817, title XVIII, of the Social Security Act. This subsection shall become effective on the date that benefits under title II of the Social Security Act are provided.

TITLES III—SUPPLEMENTARY MEDICAL INSURANCE

PROCTORS ESTABLISHED

Sec. 301. This Act establishes a voluntary insurance program to provide medical insurance benefits, in accordance with the provisions of this title to those individuals who elect such coverage and to be financed from premium payments by enrollees together with contributions from funds by the Federal Government.

ELIGIBILITY AND ENROLLMENT

Sec. 302. (a) Every individual who is eligible for benefits under title II of this Act is eligible to enroll for benefits under this title.

(b) An individual may enroll for coverage under this title in such manner and form as shall be prescribed by the Secretary by regulations, and only during enrollment periods prescribed in or under this Act.

(c) There shall be a general enrollment period, during which eligible beneficiaries may enroll, beginning on June 1, 1974 and ending on March 31, 1975. Thereafter, enrollment shall be permitted at any time during the months of February and March of each year for coverage to begin on July 1 of that year.

(d) Aliens shall be eligible to enroll in accordance with the provisions of this title, but they may not enroll under this title until three years after the date of their lawful admission to the United States.

SCOPE OF BENEFITS

Sec. 303. (a) The benefits provided to an individual by the insurance program established by this title shall consist of—

(1) entitlement to have payment made to him or on his behalf (subject to regulations prescribed by the Secretary) for medical and other health services, in accordance with the provisions of this title;

(2) entitlement to have payment made on his behalf for—

(A) home health services; and

(B) outpatients, medical therapy services;

(3) entitlement to have payment made on his behalf for professional services provided in connection with the following major types of services, including diagnostic and therapeutic services, provided on an outpatient basis, except that:

(A) orthodontics and services of orthodontists are excluded unless performed in connection with the restoration of a permanent tooth;

(4) entitlement to have payment made on his or on his behalf for professional services of a psychologist or a psychiatrist provided on an outpatient basis or as incident to inpatient hospital services (subject to regulations prescribed by the Secretary), for the treatment of mental illness, including mental retardation, during any period of twelve months;

(5) entitlement to have payment made on his or on his behalf for nondiagnostic medical examinations (as provided by regulations prescribed by the Secretary) including:

(A) biennial examinations for children between birth and the age of four; and

(B) pre-natal care;

(b) The benefits provided to an individual by the insurance program established by this title shall be—

(1) used in the treatment of long-term or chronic illnesses (as prescribed by the Secretary); and

(2) prescribed by a physician from the list developed in accordance with the provisions in section 301(b).

PAYMENT OF BENEFITS

Sec. 304. (a) Subject to the provisions of this section, there shall be paid from the Supplementary Health Care Trust Fund, in accordance with the provisions of this title, to those beneficiaries for whom benefits are approved under the insurance program established by this title and are necessary for the care of such beneficiaries, such amounts as the Secretary may certify are necessary to the end that benefits under this title be paid.

(b) The amounts paid under this title shall be rounded to the nearest multiple of 10 cents.

(c) Nothing in this Act shall be construed as impairing or restricting any health management contract or employee health-benefit agreement for the delivery of health care services.

(d) In the case of an individual who is entitled to monthly benefits under section 302 of the Social Security Act, his monthly payments under this title (except as provided in subsection (g) of this section) shall be reduced by the amount of any premium payments under this title, unless such amount exceeds $25 per calendar year.

(e) In the event that a beneficiary dies, the administrative intermediary and the insurance carrier shall be entitled to recover amounts paid under this title with respect to such beneficiary.

(f) The Secretary shall prescribe regulations for the administrative intermediary to carry out the provisions of this chapter.

SEC. 305. (a) Payment of benefits made under this title shall be subject to the following provisions:

(b) No payment shall be made under this title for benefits furnished to an individual after he has reached age sixty-five.

(c) The Secretary may in his discretion authorize the payment of benefits to an individual who has been certified as being in imminent danger of death, notwithstanding that he has reached age sixty-five.

(d) The Secretary may in his discretion authorize the payment of benefits to an individual who is a member of the armed forces of the United States.

SEC. 306. (a) (1) The Secretary shall, during January 1975, and of each year thereafter, promulgate a dollar amount which shall be payable for premiums for each region and subregion for months occurring in the twelve-month period commencing on July 1 of that year. Such dollar amount shall be such amount as the Secretary estimates will be equal to the Federal share of the total of the premium costs which he estimates will be payable from the Supplementary Health Care Trust Fund for such twelve-month period.

(b) The share of the premiums for the Trust Fund under this title shall be 100 per cent of the premium for the Federal share of the total premium costs for the Federal share of the premiums for the Trust Fund.

SEC. 307. (a) Payment of the family share of the premium under this title shall be made by the Secretary of the Treasury and the premiums under this title shall be paid by the Secretary of the Treasury and the Federal share of the total premium costs for the Federal share of the premium costs.

(b) The premiums for the Trust Fund under this title shall be paid by the Secretary of the Treasury and the premiums under this title shall be paid by the Secretary of the Treasury.

(c) For the purposes of this Act, the term "premium" shall mean the amount determined in accordance with the provisions of this Act.

(d) The Secretary shall, in the case of an individual who is entitled to monthly benefits under section 302 of the Social Security Act, his monthly payments under this title (except as provided in subsection (g) of this section) shall be reduced by the amount of any premium payments under this title, unless such amount exceeds $25 per calendar year.

(e) No payment shall be made under this title after the date that the amount of benefits under this title for the month in which such payment is due has been paid by the Secretary of the Treasury.

(f) The Secretary shall certify to the Treasury the amounts due under this title for the month in which such payment is due.

(g) The Secretary shall, with respect to the Federal share of the premiums under this title, promulgate such regulations as are necessary to carry out the provisions of this section.

(h) No premium payment shall be made under this title after the date that the amount of benefits under this title for the period in which such payment is due has been paid by the Secretary of the Treasury.
November 29, 1973

CONGRESSIONAL RECORD—SENATE

trust fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or for other reasons.

(e)(1) In the case of an individual who is entitled to receive for a month an annuity or other benefit under the Railroad Retirement Act of 1937, his monthly premiums under this title shall (except as provided in subsection (d)(2) of this section) be derived from sources other than the quarterly, transfer from the Railroad Retirement Board shall be made in such manner and at such times as the Secretary shall prescribe. Such deductions shall be prescribed only after consultation with the Railroad Retirement Board.

(2) The Board shall, from time to time, transfer from the railroad retirement account to the supplementary health care trust fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or for other reasons.

(f) In the case of an individual who is entitled both to such benefits and such annuity or pension, in the case of an individual who becomes entitled both to such benefits and such annuity or pension after he enrolls under this part, subsection (d) shall apply if the first month for which he is entitled to such benefits and such annuity or pension is the same as or earlier than the first month for which he was entitled to such annuity or pension, and otherwise subsection (e) shall apply.

(g) If an individual to whom subsection (d) or subsection (e) applies has any premium or any other amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

(h) In the case of an individual receiving an annuity under subchapter III of chapter 11 of title 5, United States Code (or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither such annuity nor pension can be credited under his monthly premiums under this part (and the monthly premiums of the spouse of such individual), if such individual fails to apply for the deduction provided in subsection (d) or subsection (e) applies to such spouse and if such individual agrees) shall, upon notice from the Secretary of Health, Education, and Welfare to the Civil Service Commission, be collected by deducting the amount thereof from each installment of his annuity payable under such law, or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither such annuity nor pension can be credited under his monthly premiums under this part (and the monthly premiums of the spouse of such individual).

(i) The Secretary of the Treasury shall, at such times as the Secretary shall determine, furnish such information as the Secretary of Health, Education, and Welfare may reasonably require in order to enable the Secretary to perform the functions under this part with respect to individuals to whom this subsection applies.

(1) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the civil service retirement and disability fund, or the account (if any) applicable in the case of such other law administered by the Civil Service Commission, to the supplementary health care trust fund the aggregate amount deductible under paragraph (1) for the period to which such transfer relates. Such transfer shall be made under regulations prescribed by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(2) The transfer made under paragraph (1) for the period to which such transfer relates shall be accomplished by the application of subparagraph (A) or (B) of subsection (f) of section 8903 of title 5, United States Code, the amount of which shall be determined by subtracting the amount of the premium paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

(3) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the civil service re-

(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the Trust Fund, to which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the liabilities of, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements from, the Trust Fund during the current fiscal year and each of the next two fiscal years, and a statement of the operations of the Trust Fund during the preceding fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is first transmitted.

(d) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current with average market yields may be made only in interest-bearing obligations of the United States or in obligations guaranteed by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) at such time and on such terms as the market price. The purposes for which obligations of the United States may be invested are as follows:

(1) The Managing Trustee shall pay to the Secretary such portion of the premium under this title as to which benefits under this title begin.

(2) The Managing Trustee shall pay to the Secretary such portion of the premium under this title as to which benefits under this title begin.

(3) The Managing Trustee shall pay to the Secretary such portion of the premium under this title as to which benefits under this title begin.

(4) The Managing Trustee shall pay to the Secretary such portion of the premium under this title as to which benefits under this title begin.
PAYMENT OF PREMIUMS
Sec. 404. Family payment of premiums under this title shall be made in a manner similar to the payment of premiums prescribed by regulations prescribed by the Secretary.

ELIGIBILITY
Sec. 405. Any individual who is eligible for benefits under titles II and III shall be eligible to enroll for benefits under this title.

ENROLLMENT
Sec. 406. (a) A family may enroll for coverage under this title only in such manner and form as shall be determined by regulations prescribed by the Secretary, and only during enrollment periods prescribed in or under this Act.

(b) The Secretary may provide for limited membership in health maintenance organizations except that no applicant for membership may be denied membership solely because of age or health condition.

TITLE V—MISCELLANEOUS PROVISIONS
FEDERAL HEALTH CARE STANDARDS
Sec. 501. Health personnel and allied health personnel listed in section 107(d)(3) and (5) are hereby authorized to practice their respective professions and who meet national standards established by the Secretary (pursuant to regulations prescribed by the Secretary) may prescribe by regulation or in any other profession in any other State, either independently or as a member of an organization (including hospitals).

CORPORATE PRACTICE
Sec. 502. If any proposed or existing medical care institution or health maintenance organization meets the standards prescribed by regulations prescribed by the Council is ineligible to incorporate under State law for reasons deemed incom­mensurate by the Secretary (pursuant to regulations prescribed by the Council, the Council shall issue a certificate of incorporation allowing such medical care institution or health maintenance organization to provide the services described in this title in accordance with provisions of State law applicable corporations in such State.

APPEALS
Sec. 503. (a) The determination of whether an individual is entitled to benefits under titles II, III, and IV, and the determination of the amount of benefits under titles II shall be made by the Secretary in accordance with regulations prescribed by him.

(b) Any individual dissatisfied with any determination under subsection (a) as to the amount of benefits under title II, where the matter in controversy is $100 or more, shall be entitled to have the determination reviewed by the Secretary to the same extent as is provided in section 205(b) of the Social Security Act, and in the case of determination as to entitlement or as to amount of benefits where the amount in controversy is $1,000 or more, to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) of the Social Security Act.

(c) Any individual or organization dissatisfied with any determination under subsection (b) shall be entitled to have the determination reviewed by the Secretary to the same extent as is provided in section 205(b) of the Social Security Act, and in the case of determination as to entitlement or as to amount of benefits, to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) of the Social Security Act.

HEALTH DELIVERY COMMITTEE
Sec. 504. (a) There is hereby established in the Department of Health, Education, and Welfare a Health Delivery Committee (hereinafter referred to as the Committee) to be composed of nine members appointed by the President, by and with the advice and consent of the Senate, for terms of two years without regard to the provisions of title 8, United States Code. Each member so appointed from the medical and allied health fields shall be a person who as the result of exceptional attainments is exceptionally qualified to perform his duties on this Committee. A vacancy in the Com­mittee shall not affect the quorum of the Committee, and members thereof shall constitute a quorum. The members shall choose their own chair­man. A member of the Committee shall not be an officer or employee of the Federal Government.

(b) The Committee shall—

(1) study the current need for medical personnel and facilities in the United States;

(2) study the estimated need for such personnel and facilities in the next succeeding two decades;

(3) study the solution to meeting the needs found, with particular emphasis on the effectiveness of prepaid or health maintenance plans, operating under title IV of this Act; and

(4) publish a report, every six months, of its findings and recommendations.

(c) The Secretary shall make available to the Committee such staff, information, and facilities as may be necessary to carry out its activities.

(d) The Committee shall be appointed within one hundred and twenty days after the date of enactment of this Act, and shall continue for two years thereafter.

(e) There is hereby appropriated such sums as shall be necessary to carry out the provisions of this title.

FEDERAL HEALTH CARE STANDARDS
Sec. 505. (a) Benefits conferred by titles II and III of this Act shall commence July 1, 1976.

(b) Benefits conferred by title IV of this Act shall commence July 1, 1976.

(c) Titles I and V are effective as of the date of enactment of this Act.


Sec. 509. (a) No individual entitled to insurance benefits under titles II and III may obtain health services from any institution, agency, or person qualified to participate under titles II and III if such institution, agency, or person undertakes to provide him such services.

OPTION TO INDIVIDUALS TO OBTAIN OTHER HEALTH INSURANCE PROTECTION
Sec. 507. Nothing contained in this title shall be construed to preclude any State from providing, or any individual from purchasing or otherwise securing, protection against the cost of any health services.

EFFECT UPON OTHER ACTS
Sec. 508. (a) Title XXVII of the Social Security Act is repealed, effective upon the date that the health benefits of this Act become effective.

(b) Chapter 89, title 5, United States Code, is repealed effective upon the date that the health benefits of this Act become effective.

(c) Sec. 264 of the Social Security Act (42 U.S.C. 1396a(r)) is repealed effective upon the date that the health benefits of this Act become effective.

(d) After the effective date of health security benefits provided under this Act no
FINANCING

Inpatient plan: Federal share is financed in part through present health insurance portion of Social Security payroll taxes and in part through general revenues. Individual family deductibles cover the patient's share.

Outpatient plan: is financed in part through family premium payments which will be supplemented or part with Federal payments for low income families. Employers may arrange to finance all or part of their employees premiums under this plan.

BENEFITS

(See sample figures in chart below)

Inpatient plan pays all covered costs above each family's "health cost ceiling." This health cost ceiling is determined on a family by family basis, by use of a formula taking into account both family income and family size (rounded to the nearest $1,000 for those with adjusted "family incomes" of over $20,000 to the nearest $500 for those with adjusted "family incomes" $2,000 and under).

The family must spend an amount equal to one-half its cost ceiling on covered expenses before there is any Federal contribution. Covered expenses between one-half the cost ceiling and one cost ceiling will be matched on a 50%-50% coinurance basis.

The second part is an outpatient health maintenance insurance plan. All families subscribing to the outpatient plan are eligible for the inpatient plan.

ADMINISTRATION

Both the inpatient and outpatient plans are administered by insurance carriers or public or private agencies on a regional basis, under contract with the newly created Office of Health Care within the Department of Health, Education, and Welfare.

SAMPLE FIGURES FOR COST PROVISIONS UNDER HEALTH RIGHTS ACT

<table>
<thead>
<tr>
<th>Family size and Income</th>
<th>Inpatient insurance plan</th>
<th>Outpatient insurance plan</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Medical</td>
<td>Dental</td>
</tr>
<tr>
<td></td>
<td>Deductibles (per person)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Individual payment</td>
<td>Federal payment</td>
</tr>
<tr>
<td>Family size -1:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$1,000</td>
<td>$10</td>
<td>$10</td>
</tr>
<tr>
<td>$1,500</td>
<td>$25</td>
<td>$25</td>
</tr>
<tr>
<td>$2,000</td>
<td>$30</td>
<td>$30</td>
</tr>
<tr>
<td>$5,000</td>
<td>$50</td>
<td>$50</td>
</tr>
<tr>
<td>$10,000</td>
<td>$75</td>
<td>$75</td>
</tr>
<tr>
<td>$15,000</td>
<td>$100</td>
<td>$100</td>
</tr>
<tr>
<td>$20,000</td>
<td>$100</td>
<td>$100</td>
</tr>
<tr>
<td>Family size -2:</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ADDITIONAL COSPONSORS OF BILLS

S. 513

At the request of Mr. Moss, the Senator from California (Mr. Cranston) was added as a cosponsor of S. 513, to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes.

S. 1283

At the request of Mr. Jackson, the Senator from South Dakota (Mr. Abourezk), the Senator from Oklahoma (Mr.
BARTLETT), the Senator from Maryland (Mr. BEALL), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCURDY), the Senator from Maryland (Mr. MATHIAS), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of S. 1283, the National Energy Research and Development Policy Act of 1973.

ORDER FOR STAR PRINT OF S. 2735

Mr. SPARKMAN. Mr. President, I ask unanimous consent that a star print be made on S. 2735, the Emergency Mortgage Credit Act of 1973, because of certain errors contained in the original print.

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

EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

AMENDMENT NO. 743

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

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the bill (S. 2702) the Emergency Daylight Saving Time Energy Conservation Act of 1973.

PRISONER OF WAR AND MISSING IN ACTION TAX ACT—AMENDMENTS

AMENDMENT NO. 744

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

Mr. MOSS. Mr. President, on behalf of myself, Mr. Percy, and Mr. Nelson, I submit an amendment intended to be proposed by me to H. R. S. 214, to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes, and ask unanimous consent to have the amendment printed in the Record.

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

AMENDMENT No. 744

At the end thereof, insert the following:

TITLE II—AUTOMOBILE EFFICIENCY TAX

The purposes of this Title are to encourage the development and manufacture of American automobiles which efficiently consume fuel and to stimulate the conservation of energy.

SEC. 202. (a) Part I of chapter 36 of the Internal Revenue Code of 1954 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"SECTION 4064. AUTOMOBILE FUEL CONSUMPTION TAX.

"(a) Imposition of Tax.—There is hereby imposed upon every new automobile manufactured, produced, or imported a tax at the rate of 1 cent per gallon of gasoline at the time the vehicle is first sold for use in any State for purposes other than resale.

"(b) Rate of Tax.—In the case of any new automobile manufactured, produced, or imported after the date of the enactment of this Act, the rate of tax imposed by subsection (a) shall be 2 cents per gallon of gasoline at the time the vehicle is first sold for use in any State for purposes other than resale.

"(c) Apportioned Tax.—The rates prescribed in subsection (b) of this section shall be apportioned as follows:

<table>
<thead>
<tr>
<th>Fuel Consumption Rate</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>22 but not over 23</td>
<td>1 cent</td>
</tr>
<tr>
<td>19 but not over 22</td>
<td>2 cents</td>
</tr>
<tr>
<td>16 but not over 19</td>
<td>4 cents</td>
</tr>
<tr>
<td>14 but not over 13</td>
<td>6 cents</td>
</tr>
<tr>
<td>12 but not over 11</td>
<td>8 cents</td>
</tr>
</tbody>
</table>

"(d) Credit.—The Administrator of the Environmental Protection Agency shall have the power to prescribe such regulations as may be necessary to carry out this section.

"(e) Records and Reports.—The Administrator, in consultation with the Secretary of Transportation, shall require the Secretary of Transportation to submit to him a report on the experience with the application of the tax, and the impact on the use of motor vehicles for purposes other than resale, and, to the extent that such information is available, the effect of the tax on the availability of alternative vehicles and the use of such vehicles.

"(f) Studies and Investigation.—The Administrator shall, in carrying out the provisions of this section, conduct such studies and investigations as may be necessary to determine the impact of the tax on the availability of alternative vehicles and the use of such vehicles.

SEC. 203. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") shall, from time to time, study and investigate the fuel consumption rate of automobiles which are subject, or may be subject, to the tax imposed by section 4064 of the Internal Revenue Code of 1954 (relating to automobile fuel consumption taxes).

(b) The studies and investigations conducted under subsection (a) shall include tests of the fuel consumption rate of each automobile model subject to the tax imposed by such section.

"(c) Report.—The Administrator shall make and transmit to the Secretary of Transportation a report on such studies and investigations. The Administrator shall, in preparing such report, consult with the Secretary of Transportation and the Secretary of Commerce. The report shall be made available to the public in such manner as the Administrator shall determine.

"(d) Recommendations.—The Administrator shall make recommendations to the Secretary of Transportation to prescribe such regulations as may be necessary to carry out the provisions of this section.

SEC. 204. (a) Nothing in this Act shall be deemed to authorize the withholding by the Administrator of any records, reports, or information from either House of Congress, or any duly authorized committee thereof.

(b) Construction.—This Act shall be construed to carry out the purposes of this Act.

(3) The Administrator, in consultation with the Secretary of Transportation, shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

(4) The Administrator, in consultation with the Secretary of Transportation, shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

(5) The Administrator, in consultation with the Secretary of Transportation, shall prescribe such regulations as may be necessary to carry out the provisions of this Act.
November 29, 1973

CONGRESSIONAL RECORD—SENATE

raising effects of this measure can be felt. The automobile industry is characterized by car life cycles, meaning that between the beginning of design and actual production. For this reason the first tax would not be assessed until July 1, 1976.

The industry would, therefore, be given a 2½-year period for redesign and retooling. Another 2 years would elapse before the stiffer final tax schedule would take full effect. Thus, the industry would be given every opportunity to avoid the tax by producing more efficient automobiles.

The effects of shifting to production of cars with lower fuel consumption will in the long run benefit the American automobile industry. A full-sized, American-made, fuel-efficient car would be an extremely competitive product for both the domestic market and the export.

Thus, the automobile fuel consumption tax would bring about vitally important conservation measures. It would save money for the consumer. And it would allow Detroit to face the challenge of the imports. Enactment of a fuel consumption tax should be considered a high priority for the Congress.

Mr. NELSON. Mr. President, we are rapidly approaching widespread resource shortage involving a broad spectrum of critically important food, fiber, mineral, and energy materials. We either make rational decisions respecting the use of these resources or time and events will surely impose a result upon us that will spell disaster for the whole world of social and economic independence.

One of these critical resources is oil. Major economies can and must be achieved in energy use. One area of economy is the consumption of fuel by automobiles. For 15 years the automobile industry has short sightedly been producing more expensive, heavier gas consuming vehicles despite persistent public demands for lighter and more economical cars. The Federal Government has been a major invasion of the American market by foreign cars. We have been exporting jobs and importing cars. This will continue at an accelerated pace unless dramatic action is taken.

Will Rogers said that the United States is the only country in the world that will drive to the poorhouse in an automobile. While this may be an exaggeration it emphasizes our unwise waste of precious gasoline. Although the United States is the leading producer of automobiles in the world and has more accumulated automobile knowledge and experience than any other country, American automobiles on the average are less efficient at using fuel than those produced by any other country. In recent years, the efficiency of American automobiles has progressively declined. In 1950, automobiles were averaging 14.85 miles per gallon. By 1972 this has dropped to 13.57.

The declining efficiency of the American-built cars threatens American jobs and encourages the rise in foreign car sales in the United States. Now, with the
onset of the oil squeeze jobs in the U.S.
automobile industry are threatened
even more. Last week, as the popularity
of big cars skidded, General Motors took
an extraordinary step. It ordered 16 of
its assembly plants in the United States
and Canada to shut down for the week
beginning February 1, to cut back production by 70,000 cars, mainly large
and intermediate models. It was the first
time GM has closed plants to reduce
production since—February 1970, when
car sales were slumping badly. Normally
GM turns out 120,000 to 130,000 units a
week.

We simply cannot let jobs in the auto
industry and our rapidly diminishing
natural resources to continue to be at the
mercy of unwise production decisions
made in Detroit.

Last year, 1,428,447 foreign cars were sold
in the United States representing
14.5 percent of the market. Less than 7
years ago in 1965 foreign car sales were
only 6.1 percent of the market and in 1962
they were only 4.9 percent of the market.

It is estimated that in 1973 registration of
foreign new cars will represent
13.5 percent of the total U.S. market.

Mr. President, I ask unanimous consent to
insert in the CONGRESSIONAL
Recorn at this time a table showing the
registration of new cars and their per-
centages by general market class from
this 1967 to 1973.

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

REGISTRATION OF NEW CARS BY GENERAL MARKET CLASS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>High price</td>
<td>2.9</td>
<td>2.6</td>
<td>2.9</td>
<td>3.3</td>
<td>3.7</td>
<td>2.7</td>
<td>2.4</td>
</tr>
<tr>
<td>Regular size</td>
<td>17.8</td>
<td>17.0</td>
<td>16.8</td>
<td>13.7</td>
<td>15.1</td>
<td>14.5</td>
<td>12.7</td>
</tr>
<tr>
<td>Intermediate</td>
<td>26.6</td>
<td>27.0</td>
<td>28.5</td>
<td>22.9</td>
<td>20.9</td>
<td>19.3</td>
<td>16.3</td>
</tr>
<tr>
<td>Special sports</td>
<td>12.6</td>
<td>12.1</td>
<td>12.0</td>
<td>8.4</td>
<td>8.2</td>
<td>8.0</td>
<td>7.5</td>
</tr>
<tr>
<td>Small size</td>
<td>21.8</td>
<td>24.9</td>
<td>22.2</td>
<td>23.0</td>
<td>18.1</td>
<td>15.2</td>
<td>18.8</td>
</tr>
<tr>
<td>Compact size</td>
<td>17.9</td>
<td>29.2</td>
<td>31.2</td>
<td>32.2</td>
<td>12.1</td>
<td>12.4</td>
<td>11.9</td>
</tr>
<tr>
<td>Subcompact size</td>
<td>18.7</td>
<td>10.6</td>
<td>11.2</td>
<td>14.2</td>
<td>11.6</td>
<td>10.3</td>
<td>9.7</td>
</tr>
<tr>
<td>Foreign cars</td>
<td>18.3</td>
<td>19.4</td>
<td>19.8</td>
<td>20.9</td>
<td>21.4</td>
<td>22.4</td>
<td>23.7</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

Mr. NELSON. Mr. President, this table
reveals that the percentage of large
cars—medium size, intermediate
size, and special sports cars—excluding
high price cars which constitutes about
2.6 percent of the market regardless of
time and price—has fallen from 81 per-
cent in 1967 to 57.7 percent in 1973 while
the percentage of compacts, subcom-
pacts, and foreign cars has risen from
16 percent in 1968 to 39.9 percent in 1973.

High paid automobile executives just
refuse to recognize the changes occurring
in the market. As Michael Evans of Chase
Economistic Associates, Inc., wrote:

The market share of standard-size cars fell
7 percent last year, but as much as it
could have fallen in the previous seven
years. These facts simply could not have been
a secret from executives in an industry which
has more daily and weekly data than any
other.

I personally know of several instances
where middle management argued strenu-
ously last year that production lines should
be reoriented toward smaller cars. Yet this
argument fell mostly on deaf ears at the top
executive level. John de Cerean’s abrupt de-
parture from GM was based on more than
long boring staff meetings.

I am offering, with Senator Moss of
Utah and Senator Percy of Illinois, an
amendment that will induce American
automobile manufacturers to produce
more fuel efficient cars and consequently
make substantial savings in the amount of
gasoline used by automobiles. We pro-
pose that a fuel economy tax be levied
on new automobiles beginning July 1,
1976. The tax will be based upon miles
gallon ratings developed by uniform
testing procedure to be conducted by the
Environmental Protection Agency.

Basically, this bill would establish an
automobile standard of 20 miles per
gallon. Cars getting that mileage or
higher would pay no excise tax. Less ef-
ficient cars would pay a tax proportional
to their fuel consumption.

Because of differences in construction
angle, operation, commercial vehicles and
farm vehicles are exempted from the tax.
The tax would be imposed only once on
the manufacturers of new automobiles at
the time of the sale. It would be enacted
now, but would not take effect until July 1,
1976, in order to allow the automobile
industry sufficient advance leadtime to
design and produce a standard size car
which, because of more efficient use of
gasoline, would not be subjected to the
tax.

A recent Department of Treasury study
which recommended a fuel economy tax
stated that:

The (automobile) industry can produce
large cars which yield close to 20 miles per
gallon using existing technology without
sacrificing comfort, styling, or exhaust emis-
sion standards.

It is mileage that counts, not size. We
must pay the price of our love affair
with these gas-guzzling dinosaurs. Con-
vincing evidence exists that Americans
can have full-sized automobiles which
will get far better mileage. The average
American vehicle converts only 25 per-
cent of the energy supplied to it to useful
work. Average American automobile
mileage has been decreasing every year.

In September 1927, a Federal inter-
agency research committee confirmed
this conclusion. The summary technical
report of the Transportation Energy R.
& D. Goals found:

In the near term, within the next few
years, it appears possible to demonstrate
as much as a 30 percent reduction in fuel
consumption by standard automobiles with 1976 emis-
sion controls without substantially affecting
performance or losing the gains made in con-
servation. Such reductions in fuel
consumption would be accomplished by using
existing technology and optimizing vehicle
and engine designs for that purpose rather
than for lowest first cost, as is now the in-
dustry practice.

The EPA study indicates clearly that
lighter cars do make significant savings
in gasoline. This test was made of 630
1975 vehicles. It shows that the mileage
of the heaviest vehicle—5,500 pounds—
averaged 8.8 miles per gallon while that
of the smallest vehicle—2,000 pounds—
averaged 25.5 miles per gallon.

When I first proposed this bill, Mr.
President, I was unfairly drafted so that
the American industry has sufficient
warning and leadtime to allow the auto-
mobile industry to design and produce
a standard size car which, because of more
efficient use of gasoline would not be
subject to the tax.

America is very strongly technically,
and with the right incentive will develop
cars which not only give better mileage but
also will be safer and more comfortable.

More efficient automobiles will also help
our balance of payments. According to
current projections, by 1985 the United
States will be dependent over one
half of its petroleum upon foreign
sources. If we allow these projections to
come true, it is estimated that the value
of petroleum imports will have risen to
the staggering sum of $17 billion a year,
and some estimates are even higher.

The tax that we are proposing today
will, by inducing automobile manufac-
turers to produce more efficient cars and
reduce automobile purchase of large cars,
save substantial amounts of gasoline.

Using a tax schedule similar to the one
proposed, the Treasury Department has
estimated that 1 million barrels of gaso-
line line per day could be saved by 1980—that
is the equivalent of over 2 million barrels
per day of crude oil or roughly one-half of
the projected output of the Alaska
pipeline.

The revenue from the tax would be
$2.78 billion in 1976. Thereafter, it would
rapidly decline as cars became more effi-
cient and motorists increase their pur-
chases of smaller cars. By 1980, the tax
would raise about $600 million per year.

The amendment that I am proposing
today is sound fiscal and energy conser-
vation policy. It allows every individual
the freedom of choice and it does not have the inherent inflexibility of bureaucratic standards or regulations. The tax proposed today is consistent with sound tax policy because it is based on the ability to pay. This is a much more sound and equitable way to pay for the inevitable increases in gasoline costs than by a flat gasoline tax which has been proposed from time to time by various administration spokesmen. A flat gasoline tax is highly regressive, placing a disproportionate tax burden on the average American driving to his place of work, compared to the wealthy individual driving to his vacation home.

AMENDMENT NO. 745

Ordered to be printed and to lie on the table.

Mr. PERCY. Mr. President, I submit an amendment intended to be proposed by me to H.R. 8214, to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes, and ask unanimous consent to have the amendment printed in the Record.

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

AMENDMENT NO. 745

At the appropriate place in the bill insert the following:

(1) Tax Credit.—Section 41(b)(1) of the Internal Revenue Code of 1954 (relating to contributions to candidates for public office) is amended to read as follows:

"(1) Tax Credit.—The credit allowed by subsection (a) for a taxable year shall be limited to $25 ($50 in the case of a joint return under section 6013)."

(2) Tax Deduction.—Section 218(b)(2) of such Code (relating to contributions to candidates for public office) is amended to read as follows:

"(1) Amount.—The deduction under subsection (a) shall not exceed $100 ($200 in the case of a joint return under section 6013)."

(5) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

AMENDMENT NO. 746

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

Mr. TAFT. Mr. President, today, I am submitting an amendment intended to be proposed by me to the pending tax bill, H.R. 8214. This amendment would require the Federal Government to withhold the Federal income taxes from its employees. Such requirement would benefit directly hundreds of thousands of Federal workers.

Because local income taxes are not withheld from wages of Federal employees, these workers are forced to pay the taxes in lump sums on a quarterly or annual basis. The obligation to pay a substantial amount in local taxes at one time presents a serious hardship to many Federal workers. As of early 1972, one-third of Cleveland's postal workers had not been able to meet this obligation, and owed the city hundred of dollars per person in back taxes.

This amendment would allow Federal workers to pay their city taxes in the same convenient manner as other workers. Employees would then be able to save $500 or more, instead of having to pay $25 or $50 in city taxes throughout the year. The amendment would also provide some extra money for the cities. Because the employees' contributions (if they still longer have to devote extra attention to Federal workers, administrative costs will decrease. In my own State of Ohio, the cities of Akron, Columbus, and Toledo expect that their legislation save $500,000 to $350,000 in this manner. The major new source of income, however, would occur as a result of a reduction in tax delinquencies and an increase in the cities' ability to collect installment taxes. City to city, the Land's department has estimated that because of fewer losses in uncollected taxes, the city's income could be increased by $50,000 to $400,000 annually. The city of Cincinnati has estimated that the enactment of this legislation would save its taxpayers about $100,000. Similar savings would be realized by cities in other States.

My amendment would apply to cities with populations of 60,000 or more. When legislation pertaining to this subject was debated on the Senate floor during the last Congress, an amendment was added to exempt residents of States other than that in which the taxing city is located from the withholding requirement unless they consent to withholding. In the interest of making legislation acceptable to all concerned and thus facilitating its passage, I have included this amendment in today's proposal.

The major organizations representing groups which my amendment would affect strongly support it. These organizations include the National League of Cities—U.S. Conference of Mayors, the National Postal Union and other major Federal employees. The Treasury Department and the Office of Management and Budget have historically supported legislation along these lines, and I am informed that their positions have not changed.

As I have mentioned, legislation identical to this amendment was passed by the Senate during the 92d Congress, but the House failed to act. I am not sure how long it will take to act on the measure. The House passed similar legislation several years ago.

I hope that this time both Houses of Congress will seize the opportunity to provide equal treatment for our Federal workers and additional assistance for our cities.

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

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

AMENDMENT NO. 747

At the proper place in the bill insert the following new section:

 Sec. — (a) Section 5517 of title 5 of the United States Code is amended—

(1) by inserting "or city" after "State" each place it appears in subsections (a) and (b); and

(2) by inserting before the period at the end of subsection (c) the following: "and city" means only a city which is incorporated under the law of a State and which had a population (according to the last decennial census before the request is made under section (a)) one thousand or more individuals.

(b) Section 5517 of such title is further amended by adding at the end of subsection (a) the following sentence: "The agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless he consents to such withholding."

(c) The heading for such section 5517 is amended to read as follows:

"5517. Withholding State and city income taxes."

(d) The analysis for subchapter II of chapter 55 of title 5 of the United States Code is amended by striking out the item relating to section 5517 and inserting in lieu thereof the following:

"5517. Withholding State and city income taxes."

(e) The amendments made by this section shall apply only in respect of agreements entered into after the date of the enactment of this Act.

AMENDMENT OF THE SOCIAL SECURITY ACT—AMENDMENTS

AMENDMENT NO. 747 THROUGH 750

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

Mr. CRANSTON submitted four amendments intended to be proposed by him to the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

AMENDMENT NO. 751

Mr. PELL submitted an amendment intended to be proposed by him to H.R. 3153, supra.

AMENDMENT NO. 752

NOTICE OF HEARING ON FEDERAL PAPERWORK BURDEN

Mr. McIntyre, Mr. President, on December 13, 1973, at 10 a.m., in room 202 of the Dirksen Senate Office Building, the Subcommittee on Government Reform and Oversight of the Senate Select Committee on Small Business, which I have the honor to chair, will resume its hearings into the Federal paperwork burden.

The hearing on December 13 will examine the reporting requirements of the Bureau of the Census as they relate to small business. Representatives from the Bureau of the Census, small business associations, and the accounting profession are scheduled to appear as witnesses.

Further information may be obtained by calling the subcommittee staff on 225-5175.

NOTICE OF OVERSIGHT HEARINGS ON FEDERAL ADVISORY COMMITTEE ACT

Mr. Metcalf, Mr. President, I wish to announce that the Subcommittee on Budgeting, Management and Expenditures will continue its oversight hearings on Public Law 92-463, the Federal Advisory Committee Act, next Thursday,
December 6, 1973

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Mr. ERVIN. Mr. President, late in 1971 and continuing in February 1972 the Constitutional Rights Subcommittee held a set of hearings on freedom of the press. The hearings had become necessary, in the subcommittee’s opinion, because of increasing hostility between the news media and the administration. A whole series of issues had risen which badly needed exposure, discussion, and clarification. Let me quote briefly from my remarks of September 27, 1971, when the hearings opened:

First, the increased subpenaing of journalists by grand juries and congressional committees.

Second, the public use of false press credentials by government investigators.

Fourth, new fears about government control and regulation of the broadcast media.

In addition, we have heard sharp and angry attacks upon the news media by high government officials that have brought forth equally hostile responses from spokesmen for the press. Some government officials appear to believe that the purpose of the press is to test and criticize the policies and programs of the public in the best possible light. These officials have forgotten that the test of free press is to have lost sight of the central purpose of a free press in a free society.

Likewise, some members of the press appear to have forgotten that the First Amendment’s guarantee of free speech and press was not intended as their exclusive possession. Those enlightened men who brought forth equally hostile responses from the press have become convinced that the purpose of the press is to test and criticize the policies and programs of the public in the best possible light. These officials have forgotten what has now become a classic refrain:

With respect to your request for the appearance of Mr. Dean before your Subcommittee, it has been a matter of long-established principle and precedent that members of the President’s immediate staff do not appear before Congressional committees to testify in regard to the performance of their duties as members of the President’s staff. This fundamental principle is of central importance to the operation of our system of government.

Because of this White House shyness, the administration was deprived of a perfect forum from which to express its complaints about the press. I always thought it strange that an administration which apparently was so deeply concerned about its treatment by the press, and the failure of the press to present the White House viewpoint, should have forgone such an ideal opportunity to speak to the Congress and to the public.

We had very broad press, TV, and radio coverage and the testimony of White House representatives would have been generously covered had they chosen to appear.

These hearings have come a long way since those comparatively innocent days. Some issues of 1971 and 1972 have receded in importance. New ones have arisen.

First, the increased subpenaing of journalists by grand juries and congressional committees.

Second, the widespread use of false press credentials by government investigators.

Fourth, new fears about government control and regulation of the broadcast media.

The real problem that faces the Administration is to get this unfair coverage in such a way that [we] make maximum impact on a basis which the networks—newspapers and Congress will react to and begin to look at things somewhat differently. It is my opinion that we should begin concentrated efforts in a number of major areas that will have much more impact on the media and other anti-administration spokesmen and will do more good in the long run. The following is my suggestion as to how we can achieve this goal:

1. Utilizing the antitrust division to investigate various media relating to antitrust violations. Even the possible threat of antitrust action I think would be effective in changing their view in the above matter.

2. Utilizing the Internal Revenue Service as a method to look into the various orga-
To A. Butterfield—President's request for a report what resulted from our PR efforts following up the Friday Press Conference. (Log 1406), October 3.

H. Klein—President's request that we have the Chicago Tribune hit Senator Percy hard on his support of the Peace group. (Log 1485), Confidential, October 3.

To H. Klein—President's request for letters to the editor regarding Newsweek's lead article covering the President's U.N. speech. (Log 1443), September 20.

To H. Klein—Ron Ziegler—President's request that you attack Life Magazine's editorial accusing the Administration of creating a Censure Gap. (Log 1159), September 27.

To H. Klein—President's request that you contact Howard K. Smith and give him the true record on what the Administration has done. (Log 1367), September 28.

To A. Butterfield—Sen. Kennedy's Boston speech alleging that the war in Vietnam remains virtually unchanged. (Log 1292), September 23.

To P. Flanagan—Ralph Nader's charge that the President pays little attention to consumer affairs. (Log 1299), September 24.

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To J. Ehrlichman—President's request for a report on possible answers to Evans-Novak charge of an Administration retreat on tax reform. (Log 1224), September 23.

To Dr. Kissinger—President's request for a report on Walter Cronkite's comment that the South Vietnamese did not observe the truce resulting from Ho Chi Minh's death. (Log 1154), September 16.


Memorandum for Mr. Magruder, High Priority.

A couple of points that I did not want to cover in the general meeting, but that you do need to move ahead on quickly.

First, the new Administration's press conference today suggested that TV summary done by Buchanan, which is a devastating indictment of NBC, especially of David Brinkley.

Specifically, Brinkley was completely off base factually on his budget criticism, and we need to get that one straightened out.

The need, probably, is to concentrate on NBC and give some real thought as to how we can change the thinking of the anchorheads such as some of our most effective thinking on steps that can be taken to change this, and I should have this back from Buchanan in about a one-day deadline, so that we get it done instead of talked about.
Memorandum for: H. R. Haldeman.

FCC being hurt (and objectivity. It is quoted as making some extremely claiming under the President. It pressed	activity that the newscaster intends to paraging remarks about the President. It has charmed that the great majority of the work press and this colors their presentation of the news. Have him charge that there is a political conspiracy in the media to attack this Administration.—Klein/Colson.

Have Dean Burch "express concern" about press objectivity in response to a letter from a Congressman.—Nofziger

Through independent Hill sources, stimulate non-partisan Congressional questioning of the issue. Place such remarks in the Record.—Nofziger

Arrange for an "expose" to be written by an author such as Earl Mazo or Victor Laskey. Publish in hardcover and paperback—Klein

Produce a prime-time special, sponsored by private funds, that would take another look at how a raised eyebrow or a tone of voice can convey criticism.—Klein/Colson

Have outside groups petition the FCC and issue public "statements of concern" over press objectivity.—Colson

Generate massive outpouring of letters-to-the-editor.—Magruder

LIFE occasionally runs an opposition view. Generate more letters—Klein

Have a Senator or Congressman write a public letter to the President and it got very good coverage.

Also, attempt to set up a seminar on press objectivity in Washington and at the next major NAB meeting.—Klein/ASNE and NAB

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Also, attempt to set up a seminar on press objectivity in Washington and at the next major NAB meeting.—Klein/ASNE and NAB

2. The networks are terribly nervous over the uncertain state of the law, i.e., the recent Supreme Court grant Congress access to TV. They are also apprehensive about us. Although they tried to disguise this, it was obvious. The harder I pressed them (CBS are accommodating, cordial and almost apologetic they became. Stanol for all his bluster is the most indefatigable of the lot), the more they tried to get their facts and figures from us. I was not unhappy about this. CBS has always been fair and balanced in its news reporting. The President warned me that there would be no TV campaign against the President and it got very good coverage.

5. To my surprise CBS did not deny that the news had been slanted against us. Paley merely said that every Administration has


(Administratively confidential)

Memorandum for: Mr. Magruder. From: Jeb S. Magruder.

Re: Press Objectivity.

The issue of that Huntley is fairly well played. We leaked a letter of apology to the President and it got very good coverage.

We will continue to hammer at press favoritism on a regular basis. We will ask the Vice President to make this a standard fare while he's on the stump in the Congressional campaigns.

We will keep tabs on examples of partisan press treatment and feed them into the Vice President (and Cabinet officers on the stump) on a regular basis. Now that Huntley is out, he is no longer the issue. Howewer, the standby of 1970, the tax law, is still a hot potato. We will find more and more examples of unfair treatment by the press. This will simply be a continuing function.
felt the same way and that we have been slower in coming to them to complain than our predecessors. He, however, ordered the White House to present Democratic viewpoints on legislation. As a result of the Nixon administration's faster response to requests for interviews, there have been complaints that the Nixon administration has a very firm relationship whenever they or we want to talk. I am realistic enough to realize that there probably won't be any obvious improvement in the news coverage but I think we can dampen their ardor for putting on mileage out of that. Also, see if I have detailed notes on each meeting if you'd like a more complete report.

CHARLES W. COLSON.

THE WHITE HOUSE, Washington.

TALKING PAPER—JEB MAGRUDER

1. Put someone on the Washington Post to needle Kay Graham. Set up calls or letters to presentations by the Congress—either directly to the chief executive or to whomsoever he designates. Each of them invited this and we should do it so they know we are not bluffing.

2. We should have a mechanism (through Herb, Ron, or me) every time we believe coverage is slanted whereby we point it out either to the House or Senate or wherever he designates. Each of them invited this and we should do it so they know we are not bluffing.

3. I will pursue with ABC and NBC the possibility of their sending a consultant on the FCC. In the past we have found generally favorable to the President's use of TV. If I can get them to issue such a policy statement, even though they recognize that we should do it so they know we are not bluffing.

4. I will pursue with Dean Burch the possibility of an interpretative ruling by the FCC on the role of the President when he uses TV, as soon as we have a majority. I think that this point could be very favorably classified and it would, of course, have an inhibiting impact on the networks and their professed concern with achieving balance.

5. I would like to get CKY and others to make frequent reports on their mistakes. If they made a mistake, don't want the FCC in the business of correcting their mistakes.

6. CBS does not defend the O'Brien appearance. Paley wanted to make it very clear that he had no antipathy against Mr. O'Brien and that there would not permit partisan attacks on the President. They are doggedly determined to win their FCC case; however, as a matter of posture. I think that they have a very real problem, however, if they made a mistake, they don't want the FCC in the business of correcting their mistakes.

7. ABC and NBC believe that the whole controversy over “answers” to the President should be handled by giving some time regularly to presentations by the Congress—either debates of the State-of-The-Congress type presentations by us and are in the Congress represented. In this regard ABC will do anything we want, NBC proposes to provide for a Congressional coverage, once or twice a year and additionally once a year “loyal opposition” type answers to the President's State of the Union address (which has ranged from 1961). Paley takes quite a different position. Paley's policy is that the Congress cannot be the sole balancer and that the networks and the networks leadership in Congress should have time to present Democratic viewpoints on legislation.

On that basis it seems to me that the critical of all, we can split the networks in a way that will be very much to our advantage.

CONCLUSION

I had to break every meeting. The networks badly want to have these kinds of discussions and they have cooperation with other Administrations but never with ours. They told me anytime we had a complaint about the networks coverage for me to call them directly. Paley said that he would like to come down to Washington to spend time with me anytime that I wanted. In short, they are very cooperative, no hard feeling at all. The networks are trying hard to prove they are “good guys.”

These meetings had a very salutary effect in letting us know that we are not the only ones and that there is cooperation and that we are not going to permit them to get away with anything that interferes with the President's initiative.

Paley made the point that he was amazed at how many people agree with the Vice President's criticism of the networks. He also went out of his way to say how much he supports the President, and how popular the President is. When Stanton said twice as many people had seen President Nixon on TV than any other President in a comparable period, Paley said it was because this President is more popular.

The only ornament on Goodman's desk was the Nixon Inaugural Medal. Hagerty said in Collier's that ABC was “obsequious.” This all adds up to the fact that they are damned nervous and scared and we should continue to take a very tough line, face to face, and in other ways.

As to follow-up I believe the following is in order:

1. On review with Stanton and Goodman the substantiation of my assertion to them that their news coverage has been slanted. We will go over it point by point. This will per -haps make the networks see the light as opposed to an immediate public outburst of anger which might occasion any real damage.

2. There should be a mechanism (through Herb, Ron, or me) every time we believe coverage is slanted whereby we point it out either to the House or Senate or wherever he designates. Each of them invited this and we should do it so they know we are not bluffing.

3. There should be a mechanism (through Herb, Ron, or me) every time we believe coverage is slanted whereby we point it out either to the House or Senate or wherever he designates. Each of them invited this and we should do it so they know we are not bluffing.

4. Please don't let this drop, and please let me know what you are doing.

H. R. HELDMAN.

THE WHITE HOUSE,

Memorandum for: H. R. Haldeman.

Here is a report on the talking paper given to me last week:

1. I asked Lyn Noltizer to work up a letter to the Post around the idea of asking the Nixon administration to respond to the Post.

2. We worked, as you know, on the yacht story with Chuck Larson and the press office. We are glad to have this point, and the Nixon administration did not have this point.

3. We worked on the TODAY show and the evening news programs. Now that it has appeared in TIME, I frankly think we have as much mileage out of it as we can get—except to cite it from time to time as an example of our attempts to save the government money.

4. We have arranged for letters to be sent to Justice Boyle, complimenting him on his coverage in telling the Kennedy case the way it is.

"TEMPORARY" TAXES BECOME PERMANENT

Mr. BARTLETT. Mr. President, an editorial appearing in the November 23, 1973, Mobile Register includes very important statements made by Senator Fulbright stating that they are in favor of increasing gasoline taxes to help pay for the energy crisis by adding additional prohibitive taxes to gasoline.

The distinguished Senators made two particular points which should be repeated.

I agree with Senator Hansen from Wyoming that it makes no sense to place an extra tax on something in short supply.

Any price increases should be reserved to provide additional encouragement and financial means to increase our short supplies of domestic energy. Our citizens are in no mood for the imposition of another large tax. As pointed out by Senator Mansfield, a 30 or 40 cents tax increase on gasoline would mean an increase in the sales tax by six or eight times.

Mr. President, I ask unanimous consent that the editorial from the Mobile Register be printed in full in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

TEMPORARY TAXES BECOME PERMANENT

The agitation carried on by some bureaucrats and politicians, and D.C., to seize upon the energy shortage as an excuse for increasing gasoline taxes is running into outspoken opposition, as it well should.

A noteworthy example in Congress is the position taken by Sen. Clifford P. Hansen, Wyoming Republican. In a discussion of the gas tax issue on the floor of the Senate, he stated:

"The fact is that we do not need an extra tax on the one thing that is in short supply."

He said he stands "squarly with" Senate
Democrat Mike Mansfield of Montana, "in opposing the imposition of any additional tax on gasoline, fuel oil or anything else."

Senator Hansen added that he knew "no one and everyone down there—what we should have a tax."

His own feeling, he emphasized, is that the Senate Democratic leader is "precisely right in railing against" a higher tax. "I agree with him personally."

Senator Mansfield commented that he hoped the "administrations are getting the smoke signals which are emanating from the Senate."

The American people in general should hope so, too.

Mr. Mansfield spoke of some of the administration people as hinting at an "increase in the federal gasoline tax from 4 cents a gallon to 30 or 40 cents a gallon present gasoline tax... would mean that the present national sales tax would be increased by an amount of about 3 cents."

He predicted that Congress "would not vote for such a tax." Congress would commit itself once again, the imposition of a per­manent tax.

"But citizens all over the United States who oppose higher taxes on gasoline because of the short supply should make their opposition clear to Congress."

The absence of a strong expression of public sentiment against increased taxes would be called by anywhere from six to eight senators to have been placed on the Senate."

Mr. PROXMIRE. Mr. President, in the American court says the more I am convinced that Mr. John Proxmire. Proxmire is long overdue and, therefore, I strongly urge the Senate to ratify the United Nations Genocide Convention and recommit it to the most important of human rights: The right to live.

GASOLINE RATIONING

Mr. FANNIN. Mr. President, the more I think about the subject of ration­ning the more I am convinced that President Nixon is absolutely correct in his determination to use it only as a very last resort.

One of the main causes of our current energy shortage is the lack of incentives for petroleum producers to bring in new wells. Today we have only 10,000 independent wells drilling for oil as compared with 17,000 just two decades ago. Only about one-half the money is being invested in the business of explora­tion as was invested in the mid-1950's.

If we are supplied sufficient fuel, there will have to be incen­tives. During the past two decades the actions of our Federal Government—and especially the Congress—has been to cut prices and suppress profits which are essential to encourage exploration.

If we ration gasoline, we will be doing nothing to increase our gasoline supply. In fact, we may prolong the crisis through rationing.

The Arab nations already have made it clear that even if the Middle East peace is restored to their satisfaction, there will continue to be severe limits on the amount of petroleum they will export. In other words, the crisis we face will not be shortlived; it will be chronic unless we can develop our own energy resources to meet needs.

So the only rational solution to our problem is to allow our fuel producing industry to earn the profits which will encourage investment in exploration.

But the talk of increased taxes presumably would be called a temporary measure adopted because of the gasoline shortage. But the people should be alert to the familiar saying that there is no such thing as a temporary tax. It does not take a temporary tax long, in many cases, to become a permanent tax.

GENOCIDE

Mr. PROXMIRE. Mr. President, in the days of America's struggle for independence, our fathers were faced with a challenge as imposing as the war itself, the formation of a new republic. Searching for the perfect form of government, these dedicated men were confronted with a challenge between the rights of individual freedom and the necessity of individual responsibility.

The American Revolution was fought to obtain the freedom of life, liberty, and happiness. These were concepts kindled by the writings of John Locke and implanted in the British Commonwealth in the 1640's. But the goal was not so clear cut. For the American revo­lutionists were inescapably heirs of the Puritan tradition, the products of Win­throp and his pious brethren. The quest for freedom was tempered by this strict sense of territorial and spiritual duty. By the time the Constitution was penned, however, a unique republic had been constructed which resolved this tension through balance of the two—individual freedom and responsibility.

But, of paramount concern is the fact that Washington, Franklin, Adams, and their compatriots welded together a union of 13 colonies which ultimately served the world as a model upholding human rights and dignity. The very words of Locke, which European intellectu­als had debated a generation earlier, became reality for the American people. Tyranny and injustice were left behind, and the morality predicated on the rights of man was constituted by an independ­ent republic.

The history of the American people has been one of diligent support for hu­man rights and dignity. Enriched by the legacy of Locke we have long been in the vanguard for liberty and justice. Today, however, we have arrived at a moment of Indecision. For over two decades the trend of the world has supported the Genocide Convention while we remain idle. Tragically the United States refrains from restating its true commitment to human life, liberty and happiness by not endorsing the articles of this humanitarian convention.

The time to reawaken the principles of Locke is long overdue and, therefore, I strongly urge the Senate to ratify the United Nations Genocide Convention.

It does not take a tax. It takes the immediate decision, the less obvious it becomes that a rationing is necessarily and absolutely fairer than even a surtax.

The first question is whether to give ration books to cars, or to drivers—or, perhaps, to everybody. Suppose that three households, side by side in the same block, have roughly the same commuting pattern. The first is a bachelor with a car. The second is a couple with three children, all over 16, with three cars. The third is also a couple with three children over 16, but they have only one car. How do you distribute the ration books?

If families get a book for each car, that gives the second family three times as much gas as the third family. That's fairness? It only encourages people to buy cars. And the third family (with three wrecked cars to get the books. But if you give a ration book to each driver then both of the families with children have five times as much gas as the bachelor. But they don't have five times as many errands or five times as much shopping to do. That doesn't seem fair, either. And then what about the people, of whom there are thousands in every big city, who have driver's licenses but no cars? Many of them, occasionally, rent cars. Are they going to be cut in, or cut out?

Before you make up your mind on those choices, consider the next one, which is even worse. Should the ration coupons be transferable? In other words, should it be legal to sell them? A legal market is a "white market"—eliminates the otherwise inevitable black market. More important, it rescues the government from the necessity of rationing, as it did in World War II. In literally hundreds of categories and sub­categories of users, with hair-splitting dis­tinctions, rationing becomes that "white market." With a white market, everybody would get a basic weekly ration. People who use the coupons would benefit, but people who need more can buy them at the going price.

But hold on a minute. If the coupons are saleable, then the going price. By mailing out the ration books, the gov­ernment is distributing a subsidy that can be used to buy gas or, through the white
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market, to buy anything else. (Let's try to avoid frivolous suggestions about using gas coupons or rationing.)

If the government is going to start handling, or rationing, its many millions of dollars worth of ration coupons, can it possibly justifiably limiting them to drivers? If our purpose is fairness, then surely justifiably. If our purpose is not to do our citizens over with this subsidy as the drivers. That takes us back to the first question. Perhaps we have had no need for ration books or coupons. Dis-

World War II rationing does not offer any very wide choice of what one may buy, as the experience of the war in which we may shortly have to embark. There are nearly three times as many cars in the country today, as in 1940. The average American car, having grown steadily bigger and less efficient, gets 3 to 40 per cent less fuel mileage today than it did in 1940. Since the war, we have built vast suburban subdivisions miles from any shops or public transpor-

During the war, the base A ration was four gallons a week. How many more, drivers, to prove need. Government officials believe that by next March we shall have to get con-

A STORY OF HUMOR

home heating, is also going to have to be rationed, of course, but here there is no need for ration books or coupons. Pro-

tions at the Sloan-Kettering Institute for Cancer Research, 410 East 68th Street. He was married to Delores, the former Delores Blackmer, of Park South with his wife, the former Suzanne Kaaren.

Mr. Blackmer was a leader in his profession. He was a founder of the Actors Equity As-

A TRIBUTE TO SIDNEY BLACKMER

Mr. ERVIN. Mr. President, with the recent death of Sidney Blackmer, the State of North Carolina lost one of its most beloved citizens. He will be remembered as an actor, a classmate and close friend of mine, and a lifelong friend of the State in which he was born.

He was a leader in the truest sense of the word. Appearing in more than 200 movies, 40 plays, and numerous television productions, he achieved a national reputation that culminated with his rec-

He was very active in a number of charities, most notably the Muscular Dystrophy Association of Amer-\n
He was an accomplished athlete, playing football, tennis, and golf. His height of 6'2" and weight of 190 pounds made him a formidable presence on the football field, where he was the star of the team. He went to Europe for a year, tried in vain to enlist in the Army, re-

North Carolina is proud of its son, Sidney Blackmer, and I join my fellow citizens and the acting community in mourning the loss of a great man. I ask unanimous consent that the obituary that appeared in the New York Times be printed in the Record.

There being no objection, the obituary as ordered to be printed in the Record, is as follows:

SIDNEY BLACKMER DIES AT 78; WON TONY FOR "SHEBA"

Sidney Blackmer, the actor, died last eve-

February 13, 1917. His marriage to Lenore Ulric, an actress who created the role of Julia in How to Succeed in Business Without Really Trying, was annulled in 1938.

He eventually did spend two years as a lieu-

CONTROL THE BUDGET

Mr. BROCK. Mr. President, the end of the year is rapidly descending upon us, and we have remaining many important issues which should be considered before the end of the session. One of those very important issues is that of controlling the budget. I feel Congress should act at this time upon that action which would give the Con-

During the war, the base A ration was four gallons a week. How many more, drivers, to prove need. Government officials believe that by next March we shall have to get con-

Mr. Blackmer was a leader in his profession. He was a founder of the Actors Equity As-

He was a member of the national execu-

He also found time to serve as a national vice president of the Actors Equity As-

a member of the national execu-

He eventually did spend two years as a lieu-

As-
mental programs would have to be passed by March 31 each year.

Then a second resolution would have to be passed establishing congressional targets on total outlays, total revenues, the level of public debt, rate of inflation, or deficit considered necessary. Later in the summer a second resolution would be called for to fix the final spending and revenue totals.

Through a process of accumulation, the old system of voting appropriations willy-nilly would be a single measure giving the grand total of appropriations would be presented. Then the taxing committees would have to upon making any necessary reconciliations.

If Congress fails to enact a budget reconciliation bill, or enacts a bill not in conformity with the budget from Ohio, the spending proposals to keep the budget in proper balance.

This whole plan would give Congress considerably more power over the budget than it now is able to exercise.

But to make that power will come new responsibilities that will require greater discipline in Congress than it has sometimes displayed in the past.

The plan can work. It will work if Congress abides by what it decides needs to be done.

THE ATTORNEY GENERAL SALARY BILL

Mr. McIntyre. Mr. President, yesterday I voted against S. 2673, the bill which lowers the salary of the Attorney General to pre-1969 levels. The purpose of this bill, of course, is to eliminate the Constitutional ineligibility of the distinguished Senator from Ohio to assume the office of Attorney General.

When and if the nomination of my friend, Bill Saxbe, comes before the Senate, I will reluctantly vote against confirmation. I feel it is important to explain the reasons for these votes.

The constitutional obstacle is clear: No Senator or Representative shall, during the Time for which he was elected, be an officer of the United States, which shall have been created, on the ground that the Constitution nowhere shall have been increased, during such time.

Mr. President, much has been said and written about the purpose and intent behind this clause of the Constitution, and I shall not repeat those arguments. For example, article I, section 3, clause 3 states:

No person shall be an official lawlessness and the damage inflicted.

Several Senate committees concur in examining the broad issue of official immunity, but the damage wrought by it on our political system.

I am sure many Members will be interested in a brief, filed by the Special Prosecuting Collins, in the U.S. District Court for the District of Columbia, which discusses whether the 'national security' creates a unique immunity from criminal prosecution.

Mr. President, I ask unanimous consent that the Government's memorandum in opposition to Defendant's Motion To Dismiss Indictment, filed on November 12, 1973, in the case of the United States against Egil Krogh, Jr., be printed as an exhibit to this record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

U.S. District Court (for the District of Columbia, Criminal No. 857-73)

United States of America versus Egil Krogh, Jr.

Government's Memorandum in Opposition to Defendant's Motion to Dismiss Indictment

The United States submits this memorandum in opposition to the motion filed by defendant to dismiss the two-count indictment against him for knowingly making false material declarations in a proceeding authorized under 18 U.S.C. § 1623.

STATEMENT

On October 11, 1973, the grand jury returned a two-count indictment alleging that, while under oath and while testifying in a proceeding before and ancillary to a grand jury, defendant had knowingly made false material declarations that he knew of certain travel by E. Howard Hunt (Count I) and G. Gordon Liddy (Count II).

The relevant allegations of the indictment, and the assertions show that in conducting an investigation to determine whether convicted Watergate burglars Hunt and Liddy were acting under the direction or with the knowledge of others, in or out of government service, it was material for the grand jury to determine what any relevant activities had been in the period shortly before the break-in. Defendant at the time was a member of the White House staff, was a former superior of Hunt and Liddy, and was one of the persons whose testimony was solicited, among arrangements made with counsel to the President John W. Dean, III, defendant, and other White House staff. It was decided to give sworn testimony before the Assistant United States Attorneys conducting the grand jury proceeding under conditions duplicating, as nearly as possible, the conditions under which a witness would physically appear in the grand jury room.

The procedure was arranged in order to prevent possible unfair publicity that might have adversely affected senior public officials. The procedure was conducted in advance to the grand jury and the grand jurors were told that, after the testimony was taken it would be presented to them, and that they would have an opportunity to further questions asked, either under the proposed arrangement or in the grand jury room.
15, 1972, the transcript was duly read in its entirety to the grand jury. On March 15, 1972, the grand jury indicted Hunt, Liddy, and five of their subordinates (McCord, Barker, Gonzales, Sturgis, and Martines) in connection with the Watergate break-in and subsequently all higher officials were indicted. The grand jury's investigation into this matter was only re- sumed on November 21, 1972, after those defendants had been convicted, McCord had come forward to admit that higher government officials, including Hunt, had been involved in the Watergate affair, and each of those defendants was ordered to testify before the grand jury.

The facts relevant to defendant's alleged "retraction" defense are described in part III of this Memorandum.


Defendant's first ground for urging the dismissal of the indictment is his claim that the examination in which he was engaged for depositions, was not a proceeding covered by 18 U.S.C. § 1623. Statute by its express terms applies to false material declarations, but it is not clear that it was a proceeding before or ancillary to any court or grand jury of the United States... 18 U.S.C. § 1623. The defendant was deposed pursuant to an arrangement arrived at between the prosecution and White House aides. His false testimony, which was allegedly made to a witness to a grand jury in lieu of an ancillary, is therefore not barred by the immunity of his deposition. "[T]he question which is raised on the statute never occurred to the legislature." Eastern Airlines, Inc. v. CAB, 354 F. 2d 507, 511 (7th Cir. 1966).

Furthermore, the wording of the immunity statute enacted as Title II of the Organized Crime Control Act, which applies to proceedings "ancillary" to a grand jury, as well as those as to a court. The defendant, who was ordered to appear before the jury, re­fers to a witness in "proceeding before or ancillary to" (1) a court or grand jury, (2) an agency, (3) either House of Congress, or a Congressional committee. Of the proceeding specific immunity statute, however, only Section 6003, that dealing with immunity, contains the word "ancillary" in the phrase. "Proposed proceedings before or ancillary to" those bodies; Sections 6004 and 6005 are respectively referred to proceedings "before" or "ancillary" to those bodies; Section 6003 and 6005 is a "proceeding before or ancillary to" an agency, or "before" Congress or Congressional committees. This comparison indicates that Congress intended that the immunity provisions of Section 1623. That statute by its express terms were intended to restrict the applicability of a statute to proceedings "before" a body, it did so with clear language. Since no language limits coverage under Section 1623 to proceedings "before" a body, the word "ancillary" as used in Section 1623 is not "ancillary" to the purpose and intended use of the proposed testimony. This testimony was given under grand jury conditions, and he was placed under oath by a duly authorized court reporter. The transcript of his testimony was actually read to the grand jury. It is the government's position that the statutory declarations surrounding defendant's testimony clearly establish that it was a "proceeding before or ancillary to any court or grand jury of the United States" within the meaning of Section 1623, and hence that his false declarations made in violation of the statute are a violation of law. Neither the legislative history of Section 1623, nor any principles of statutory construction warrant a different conclusion.

A. The legislative history of Section 1623 provides no support for the argument that defendant's examination was not a proceeding within the meaning of the statute.

Section 1623 was enacted as Title IV of Pub. L. 91-442, the Organized Crime Control Act of 1970. The phrase "proceeding before or ancillary to any court or grand jury" appears not only as to one but also as to the other provisions of that Act: 28 U.S.C. § 1826 (recall witnesses); 18 U.S.C. §§ 6001, 6002 (immunity). Nowhere in the history of the Act, however, is there any indication of a Congressional attempt to define or delimit the activities that fall within the coverage of the statute.

This exchange between Senator McClellan and Assistant Attorney General Wilson, discussed at pp. 8-6 of the Defendant's Memo­randum of Points and Authorities, is what illuminative, for it demonstrates that the words "ancillary to" were added to the draft of Section 1623 following Mr. Wilson's observation that "any other provision of the statute would not have covered such things as pretrial depositions, affidavits, and cer­

in contesting that the term "proceeding" applies only to those hearings for which there is a provision for a deposition, the defendant who is attempting to add or sub­tract, delete or detract from the congressional purpose as expressed in the words of the statute when the expanded perjury provisions of Section 1623 are to be available when false testimony is given by a witness to the grand jury, not only when the declarations are phys­ically in the court room. Notably, Senator McClellan had, in the House, proposed that Section 1623 had intended that result even prior to the addition of the "ancillary" language. No reason is given to use the expansive legislative history for imposing the interpreta­tion that Section 1623 was not similarly in­tended to be available for prosecuting knowingly false statements given for use in a grand jury. Certainly such an interpretation is not required merely because Congress did not expressly consider proceedings such as the defendant's deposition. "[T]he question which is raised on the statute never occurred to the legislature." Eastern Airlines, Inc. v. CAB, 354 F. 2d 507, 511 (7th Cir. 1966).

Footnote at end of article.
of participating in the arrangement worked out for collateral benefits.

In sum, then, the deposition testimony given by defendant was clearly given in a "proceeding ancillary to the grand jury" within the plain terms and natural intent of Section 1623. The motion to dismiss, based on the contrary proposition, must be denied.

II. DEFENDANT IS NOT IMMUNE FROM CRIMINAL PROSECUTION FOR KNOWINGLY MAKING FALSE DECLARATIONS

Defendant next claims that he is immune from federal criminal prosecution because, at the time of his false testimony, he was employed as a federal officer, and it was allegedly acting within the scope of his employment. The contention is, in defendant's words, "it is well settled that a federal officer is immune from prosecution for acts done in his capacity as a federal officer within the scope of his duties, e.g., In re Neagle, 135 U.S. 1 (1890), even civil immunity is not limited to criminal prosecution based on acts performed within the scope of his duties, e.g., In re Neagle, supra, Barr v. Matteo, supra; Eitzen v. Six Unknown Named Agents in the Federal Bureau of Investigation, 456 F. 2d 1335 (2d Cir. 1972) (police conduct in making an arrest). If the information was one of a validly privileged secret of state, defendant claims, his duty—again leaving aside the question whether such privilege in fact existed—must be the only substantive privilege. As he so states in his brief, "The mere refusal to respond to a question poses no real infringement of the right of the grand jury." The same is true of the defense that the mere refusal to answer falsely and thereby simultaneously mislead the grand jury as well as the government's "assumptions." For the行使 of the privilege, the defendant "made no refusal to answer the question or in any way attempt to mislead the grand jury." The only substantive privilege was to answer falsely and thereby simultaneously mislead the grand jury as well as determine the validity of the asserted privilege for himself."

The National doctrine is a reflection of a longstanding legislative policy protecting federal supremacy and holds that state shall have no power to subject federal officers to criminal prosecution for the performance of duties supposed to federal law. But in this case, as in an important premise of Neagle and its conservative-proper —that protection of the "interests of the federal government cannot be relegated to potentially hostile state authorities, see Neagle, 135 U.S. at 62—miss- ing since defendant is being prosecuted by federal authorities not for unlawfully federal law but for his false testimony, the civil immunity attaches only to "discretionary acts at those levels of government where the concept of duty entitles the sound exercise of discretionary authority." Barr v. Matteo, supra, 360 U.S. at 766 (emphasis added). As the Court put it in Spalding v. White, 161 U.S. 501 (1896), even civil immunity is not available when an official acts in excess of his authority.

We recognize a distinction between action taken by the head of department in reference to matters which are manifestly or palpably beyond his authority, and action having more or less connection with the general matters committed by law to his control or superion.

In the case at bar, defendant's decision to perjure himself amounted to a determination that the act was one being done on behalf of the grand jury, to be withheld on grounds of national security—whether in other words, the act was one of "ascertaining a secret of state," the court has always been to the grand jury within the plain terms and natural intent of Section 1623. The motion to dismiss, based on the contrary proposition, must be denied.

The circumstances in which defendant found himself on August 28, 1972—called under oath to provide testimonial evidence for purposes of the grand jury—left no room for the exercise of any discretion. Cf. Nixon v. Sirica, supra; Spiers v. Six Unknown Named Agents in the Federal Bureau of Investigation, 456 F. 2d 1335 (2d Cir. 1972) (police conduct in making an arrest). If the information was a validly privileged secret of state, defendant claims, his duty—again leaving aside the question whether such privilege in fact existed—must be the only substantive privilege. As he so states in his brief, "The mere refusal to respond to a question poses no real infringement of the right of the grand jury." The same is true of the defense that the mere refusal to answer falsely and thereby simultaneously mislead the grand jury as well as determine the validity of the asserted privilege for himself."

As the Supreme Court said in Blyth v. United States, 396 U.S. 67, 72 (1969):

If our legal system were flexible enough to challenge the government's right to ask questions—lying is not one of them. A citizen may decline to answer the question, or answer it honestly, but he cannot with impunity knowingly and willfully answer with a falsehood.

The central difficulty with defendant's immunity claim is that it requires him to take a position that there are situations in which the integrity of the federal criminal law that protects the integrity of the judicial process falls within the scope of the power of the grand jury and even there is only applied when an officer is upholding, not violating, federal law. Reliance on that doctrine therefore begs the crucial question of whether lying under oath can ever be with the scope of a federal officer's duties.

The doctrine of Barr v. Matteo is even further off the mark. One of the fundamental premises of providing civil immunity is designed to insulate against groundless lawsuits by disgruntled private individuals, is that the claimant "has not the effect of encouraging officials of way legally because criminal sanctions for official misconduct remain in full force. As Judge Hand wrote in United States v. Lomax, 177 F. 2d 579, 581 (2d Cir. 1949), while public policies for civil immunity.

There must indeed be means of punishing public officials who have been to their duty.

Thus, our law has never accepted the pernicious premise that official misconduct must go unpunished. Despite defendant's contention, the fact that a defendant is a government officer is not a defense to criminal prosecution. Indeed, the government officer, while not in any other citizen, answerable to the federal criminal law for criminal acts done in his official capacity. See United States v. Manton, 107 F. 2d 834 (2d Cir. 1939). Even the Speech and Debate Clause, Art. I, sec. 6, cl. 2, which may, for example, go into the Constitution, "does not privilege either Senator or aide to violate an otherwise valid criminal law in preparing for or implementing the duties of his office." United States v. Manton, 107 F. 2d 834 (2d Cir. 1939).

Although we believe it is clear that there is no support in any of the cases cited by defendant for his claim to immunity or in any of the general principles he misapplies, some consideration is in order of why it would be otherwise in this instance. The federal officer with respect to his position that there are situations in which the integrity of the federal criminal law that protects the integrity of the judicial process falls within the scope of the power of the grand jury and even there is only applied when an officer is upholding, not violating, federal law. Reliance on that doctrine therefore begs the crucial question of whether lying under oath can ever be with the scope of a federal official's duties.

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command, e.g., Youngstown Sheet & Tube v. Sawyer, 343 U.S. 579 (1952)

The obvious, however, is that the orders of a
superior can be used by government officers to justify illegal behavior, United States

As Justice Brandeis wrote in his famous dis
senting opinion in Olmstead v. United States,
277 U.S. 438 (1928):

Experience should teach us to be most on our
guard to protect liberty when the gov
ernment's purposes are not clearly defined. They are not
necessarily alert to repel in
vasion of their liberty by evil-minded rulers.

The greatest dangers to liberty lurk in in
ternal laws.

The factual setting of this case vividly
illustrates why the claim of "national security" must not be enshrined as a talisman
that government employees in times of emergency. The point is simply that such a defense cannot be fashioned by courts in the teeth of the clear commands of the criminal laws. The problem of recon
structing protection of the national security with the ordinary requirements of the con
stitutional law is attended only by defendant, Mr. Campbell.

We should not be understood to denigrate, once again, the legal system provides
for action that could or perhaps, under certain extreme circum
stances, a defense to criminal prosecution in in
volved with higher, not just with political, self
interests. The point is simply that the bar created by Section 1623(d) does not
make such declarations to be false, or necessarily that such falsity has or will be
exposed.

This division presents no ground for dis
missing the present indictment, since the defendant's conduct falls short of satis
fying any of its conditions.

A. Section 1623(d) is not applicable because the Defendant did not admit the falsity of the declarations for which he is being prose
cuted in the same continuous proceeding in which they were made.

Defendant's affidavit of May 4, 1973, (ann
exed as Exhibit A to his Motion to Dis
miss) was occasioned by the government's disclose
ure of the "Fielding break-in" to Dis
trict Judge W. Matthew Byrne, Jr., of the
District of California, "to imagine how
defendant's August 28, 1972 testimony for
inquiry into...the grand jury...the government's disclo
ure of this affidavit...the delivery of the affidavit...the delivery of the affidavit...a lengthy hiatus, to resurrect
the grand jury into the Watergate affair was not a continu
ous proceeding under Section 1623(d).

B. Defendant's alleged false declarations were made during the course of a grand jury inquiry which culminated on September 15, 1973, with the indictment of seven individuals, in part because of defendant's concealment of his knowledge of the travels of Hunt and Liddy, the grand jury was unable to pursue the in
vestigation of the Watergate break-in and cover-up. In March 1973, a new investiga
tion began as the result of allega
ions made by one of the seven convicted defen
dants and was pursued by compelling the testimony of those defendants. The mere fact that the grand jury continued to sit and hear other matters during the period between August 1972 and May 1973 hardly merges the two investigations into one "continuous pro
ceeding" under Section 1623(d).

A. Section 1623(d) does not provide that a defendant's admission of the falsity of his declarations automatically bars prosecution, but only that prosecution is barred if the admission occurs at a time when the false declarations were substantially affected. The Watergate affai
r was still focused on the original inquiry. Here, it was purely fortuitous that the same grand jury was able, after a lengthy hiatus, to resurrect the investigation that defendant had helped forestall many months earlier.

B. Defendant's false statements had al
ready substantially affected the grand jury's proceeding, and it had already become man
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r was still focused on the original inquiry. Here, it was purely fortuitous that the same grand jury was able, after a lengthy hiatus, to resurrect the investigation that defendant had helped forestall many months earlier.
other government or campaign officials in directing their activities. It was particularly important that the grand jury determine the quity, since White House personnel were among those likely to be subject to a continuance of criminal activity under investigation. The defendant's false declarations concealed evidence of possible criminal activity that might be discreditable to the defendants and could not have "substantially affected the proceeding." Section 1623 should not be burdened with such a debilitation construction.

Indeed, the effect of such a construction would be to grant a virtual license to lie, since it would allow a witness who deliberately lied to a grand jury to immunize himself from making a pro forma admission even after he learned that he had not fooled the grand jury for a minute. There is no reason to assume in such a case that he would indulge such trifling with the integrity of the judicial process.

One contention that a Section 1623 proceeding may go forward if the defendant's "recantation" occurs either after his false testimony has substantially affected the proceeding in the way of an earlier closing of the defendant's trial may be best avoided because it would clearly have been reached by the Second Circuit in United States v. Kahn, 472 F.2d 273 (1973); no contrary decisions have been found.

C. Defendant is not excused from his failure to proceed under Section 1623(d) that would bar his prosecution.

Defendant seems to make an independent argument that as a matter of law his prosecution must be barred because he submitted his affidavit "as soon as he was permitted to do so" by the prosecutor. The earlier disclosure would have exposed him to prosecution under 18 U.S.C. § 1001. (Memo­ randum and Order of August 8, 1973). The defendant demonstrates that he was presumably reached. by the Second Circuit in United States v. Kahn, 472 F.2d 273 (1973); no contrary decisions have been found.

Here, the defendant has engaged in a "fielding break-in" some eight months after his deposition. Nor did the defendant's alleged recantation of his false testimony occur before it had become manifest that its falsity would be exposed. It was in mid-April 1973 that federal officials made public their findings of the involvement of Hunt and Liddy in the Watergate break-in, and of the activities of the "Special Unit" at the White House, hired by the defendant. This information was transmitted to Assistant Attorney General Peter­ sen on April 20th; on April 22nd it was made available to Judge Byrne in the Ellsberg trial in California and through him, to the public on April 27th. Although the falsity of the defendant's testimony had been successfully concealed for several months, the widely pub­ licized disclosures during the Watergate Ellsberg trial might in fact have been known to the defendant. The August 1972 testimony would no longer remain shrouded.

Thus, the defendant's alleged "recantation" occurred after his false declarations had substantially affected the grand jury proceeding and after it had become manifest that their falsity would be exposed. But this indictment must be sustained if the court makes either of these findings. Contrary to the defendant's assertion, Section 1623(d) cannot be interpreted as permitting the prosecution to go forward only if the false testimony had already affected the grand jury proceeding and not become manifest false. Unquestionably some uncertainty arises because of the complex interplay of the conditions that must be satisfied "at the time the admission is made" for an ad­ mission to prosecute. Ineffect, the normal rule about strict construction of criminal statutes, the terms used in the sub­ section creating a possible bar to prosecution need not be read with any such pre­ sumption in favor of the defendant. Since what is at stake is the scope of a legal bar to prosecution that may be raised after the defendant has engaged in clearly defined criminal conduct, there is no danger of un­ fair prosecution by recanting once it has become obvious to him that his perjury had been exposed, simply by demonstrating that his statement was the product of a reasonable man did not have notice was criminal. Here, the court is entitled to interpret the bar in such a way that Congress reasonably had to be its scope.

Defendant's proposed interpretation would allow any defendant whose testimony was false to avoid execution by recanting once it had become obvious to him that his perjury had been exposed, simply by demonstrating that his statement was the product of a reasonable man did not have notice was criminal. Here, the court is entitled to interpret the bar in such a way that Congress reasonably had to be its scope.

Footnotes at end of article.
November 29, 1973

CONGRESSIONAL RECORD—SENATE

one which the agency was authorized to conduct. See, e.g., United States v. Balten, 229 F. Supp. 462 (D.C. D.C. 1964) But the practice was not limited to the director or independent for accomplishing something. This is the dictionary definition as well as the meaning of the term in common parlance. Procedures before a governmental department or agency simply mean proceeding in the manner and form prescribed for conducting business before the department or agency, including all steps and stages in such an action from its inception to its conclusion. 356 F.2d at 712.

* * * * *

Under 28 U.S.C. § 2241(c)(2), derived from the Act of March 2, 1863, c. 57, § 4 Stat. 564, the federal courts have authority to grant habeas corpus relief, inter alia, to a federal officer if he is in custody for an act done or omitted pursuant to an Act of Congress, in the course of a judicial or quasi-judicial proceeding, or an order, process, judgment or decree of a court or judge of the United States. Under 28 U.S.C. § 1442(a)(1), a criminal proceeding in the United States district court, or a civil proceeding in a federal or state court, may be removed to a federal court if the defendant is an "officer of the United States" who is being prosecuted for an act allegedly committed in the course of official duty but the officer remains subject to prosecution in the federal forum.

* * * * *

Many of the cases are collected in In re McShane's Petition, 235 F. Supp. 262 (N.D. Miss. 1964), cited in defendant's Memorandum in Support.

* * * * *

Defendant himself concedes (Memorandum in Support, p. 12) that the circumstances that led to his decision to commit perjury were "extraordinary" and not within the normal range of affairs committed to his discretion. Civil immunity simply is not available in such case because where an officer knows that he is acting out of the ordinary, he is on notice of the circumstances, and there is more reason for him to have to expect to be prepared to justify his conduct. Kelly v. Dunn, 34 F.2d 129, 132 (1st Cir. 1929).

* * * * *

See also Boehm v. United States, 123 F.2d 791 (8th Cir.), cert. denied, 315 U.S. 800 (1941) (good faith belief that statute authorized action by Director of Agriculture which was not in furtherance of the President's interest in insulating the Department of Agriculture from independent judicial review of official action).

* * * * *

Defense, for purposes of this motion, that his August 28, 1972, testimony was intentionally false.

* * * * *

Certainly it cannot be said that any federal officer is absolutely immune merely because of his official standing and his official purpose. The act which he commits in this capacity is subject to the requirements of the [immunity] "must be done in pursuance of his official duty." [citations omitted] . . .

* * * * *

* * * * *

McGinn's factual setting makes it an especially instructive rejection of the concept that an official's personal view of the requirements of duty can ever justify a violation of the criminal law.

* * * * *

* * * * *

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* * * * *

This case raises no problems as to whether an impeachable public official may be indicted before he is impeached since Mr. Krogh was not impeached before he was indicted. See United States v. Land, 148 F.2d 653 (D.C. Cir. 1945), cert. denied, 328 U.S. 806 (1952) where the Secretary of Commerce and the Acting Attorney General were adjudicated in contempt of court by a federal court order at the direction of the President.

We do not understand defendant to contend that his "good" motive for lying—prosecution commenced in 1966), where the court observed in con­cem with the immunity and other governmental immunity issues, that "the concept that official use of such material is excused by a 'good' motive is unsound. The words of a criminal statute cannot be excused by a 'good' motive. See, e.g., United States v. Mitchell, 433 F.2d 297 (5th Cir. 1972); United States v. Miller, 233 F.2d 173 (1st Cir. 1956); Kong v. United States, 216 F.2d 265 (9th Cir. 1954). ("If one com­mits a felony act, it is immaterial that he had the highest motive").

A situation, it should be emphasized, from which the facts of the present case could hardly be further removed.

It is too late in the day to contend that judges are security risks and are not to be trusted with sensitive information sufficient to enable them to determine questions of privilege. See United States v. United States District Court, supra; United States v. Reynolds, supra.

We note that, as with many of the assertions made in defendant's memorandum, there are no affidavits to support the factual contention on this point. He also makes no attempt to explain how or why information about the travels of Hunt and Liddy constituted "classified information" within the meaning of 18 U.S.C. § 798 or why the Assistant United States Attorney would have considered a "nonauthorized person" to receive such information.

That line of cases deals with situations in which the defendant had found that disclosure of the information and had created a "real and substantial" as distinguished from a "remote and imaginary" danger of in­discriminate disclosure of the information and the cases would truthfully admissions by defendant in the present case is illusory.

The only classified information whose disclosure is proscribed by Section 798 is those:

(1) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or owned or controlled for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or owned or controlled for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

* * * * *

The Justice Department policy statement also provides that subpoenas to defendants will be sought only after evidence has been sought from other sources and only after negotiations with the newsmen have taken place. Furthermore, a request for a subpoena must specify that certain conditions exist, namely, first, there is other nonmedia evidence to show that a crime has been committed; second, there is a reasonable ground to believe that the information sought is relevant and material to a successful investigation; third, the information sought is limited to verification of already published information, except in certain exigent circumstances; and, fourth, the subpoena is directed at material information regarding a limited subject matter and related to a limited amount of time. The new statement also provides that reasonable and timely notice of the demand for documents will be given.

The new policy also governs the questioning and arrest of newsmen who are engaged in the performance of their occupation. Specifically, none shall be questioned or arrested under such circumstances without the express approval of the Attorney General. This is excused in those cases where the newsmen's privileged information makes such prior approval impossible. And even in these cases, justification must be communicated to the Attorney General after the fact.

To my mind, the Justice Department is to be commended for the effort to restore the balance which once existed between the press and the prosecutor. Society has two great and competing in-
The new Justice Department policy guidelines are steps toward accommodation of those sometimes competing interests. To be sure, these are no less than call for prosecutions and not to the of those sometimes competing interests.

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November 29, 1973
CONGRESSIONAL RECORD—SENATE 38859
simultaneously amused and annoyed with the way of life. It has become nearly fashionable. To us, changing the world of work is the very reason for our existence, and we have had little control over the physical conditions in which they work: it is the employer who builds the plant, provides the machinery and who makes the initial decision as to what proportion of the resources under his control goes to a given area. These choices are still based on the calculus of private profitability—costs borne by workers, such as ill health or reduced life expectancy, are ignored.

Let us now look at what progress has been made toward ameliorating these fundamental difficulties and at how that progress has been accomplished.

Through collective bargaining, over the years the labor movement has proven its willingness to sacrifice additional pay for longer vacations, additional holidays, rest periods. But in changing the workers' sense of sacrifice is still there and will be there as long as workers are not satisfied that their incomes are adequate.

Workers today are dissatisfied with their pay not merely because their wants have increased: even according to official statistics, the wages earned by the average worker have not kept pace with the rising cost of living. As workers have become more aware of the social costs of the division of labor, characterized the effect thus:

...the trade of a lifetime is spent in performing a few simple operations ... has no occasion to exert his understanding, or to exercise his invention in following out expedients for removing difficulties which never occur. He naturally loses, therefore, the habit of such exertion. The torpor of his mind occurs. He is unable to occasion to exert his understanding, or to bring out his full abilities when called upon to do anything. The activity of his body, and renders him incapable of exerting his will to a blow, or bearing a part in any rational conversation, but of conceiving any generous, noble, or tender sentiment, and consequently of forming any just judgment concerning many even of the ordinary duties of private life.

The uniformity of his life, the stagnation of his motion, the idleness of his body, and renders him incapable of exerting his strength with vigor and perseverance, in any other employment than that which he has been bred. His dexterity at his own particular trade, is, in this manner, to be acquired by the expenditure of time have made the headlines for introducing some choice as to the number of hours worked per week for hundreds of thousands of workers who previously had no such choice. But to us, this is just a beginning. We are not complacent. Under the Chrysler efforts, workers have managed to bring a greater satisfaction in living and in working conditions of work is no less difficult today than it has been in the past. For example, the UAW agreements on voluntary over-time have made the headlines for introducing some choice as to the number of hours worked per week for hundreds of thousands of workers who previously had no such choice. But to us, this is just a beginning. We are not complacent. Under the Chrysler

Finally, in our attempts to get improvement, conditions, we have found that even elementary remedial steps such as putting safety guards on dangerous machinery, providing adequate protection in dangerous areas, adding slipper floors, etc. are usually taken only when they can be shown to coincide with higher profits and productivity. Where there is a conflict between profit and safety, struggle is long and bitter. The difficulties of this struggle have shown that collective bargaining is not always an adequate tool.

We had to fight for legislation: to raise public opinion to impose legal sanctions on employers who might otherwise view their labor force as mere grist for the industrial mills.

We have found over the years that attitude of workers alternated between working them to death or, when they could not be prevented from protecting their health and safety. Which attitude prevailed depended on the supply of slaves and the relative costs of maintaining a slave or hiring a free worker. We recognize an analogy with today's employers' attitudes to their workers.

Legislation alone is not always adequate. In spite of our having worked hard to get the Occupational Safety and Health Act passed, the employers' lobby managed to limit funding for enforcement. Consequently, employers' lobby managed to limit funding for enforcement. Consequently, employers' lobbyist managed to limit funding for enforcement. Consequently, employers' lobbyist managed to limit funding for enforcement. Consequently, employers' lobbyist managed to limit funding for enforcement. Consequently, employers' lobbyist managed to limit funding for enforcement. Consequently, employers' lobbyist managed to limit funding for enforcement. Consequently, employers' lobbyist managed to limit funding for enforcement. Consequently, employers' lobbyist managed to limit funding for enforcement. Consequently, employers' lobbyist managed to limit funding for enforcement. Consequently, employers' lobbyist managed to limit funding for enforcement. 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costs from hiring additional relief workers. What was the reaction of those responsible for initiating public opposition to the strike, which had been universally acclaimed? Time magazine contemptuously christened it "The Toilet Strike" and described it as an example of "unionism at its meanest." Today that same press declares its commitment to the non-fashionable cause of job enrichment and to the desirousness of work alienation in the labor movement is nurtured. It is not too hard to see why the labor movement should regard it as a pious hope. There are examples (e.g., Borg-Beck) of management involving workers in the early design stages of the new plant they were to work in. In such cases management almost always finds that the workers can improve the efficiency of the operation and make a worker's life on the job easier. But there is no sense of harmony of goals other than conflict.

Finally, we hope that those in a position to influence public opinion will now support our call for the President to order upon the non-economic gains won in recent collective bargaining agreements.

**AIR TRANSPORTATION AND THE PROPOSED EMERGENCY CONSERVATION MEASURES**

Mr. CANNON. Mr. President, after having carefully reviewed the President's emergency conservation order of Sunday, I am disturbed at the disastrous impact the emergency conservation measures will have on the Nation's air transportation system.

In that regard, I am at a loss to understand why air transportation was singled out to bear a disproportionate share of the burden and the cuts, while other modes of transportation, public and private, were largely left to operate on a "business as usual" basis.

In brief, the President has ordered up to a 50-percent cutback in general aviation flying and a 20-percent reduction in airline service across the Nation.

It is incomprehensible to me that our air transportation system is to be cut so deeply when corresponding cutbacks have not been ordered in automobile usage, motor carrier operations, or, indeed, in any other sector of our economy.

The cutbacks ordered by the President are going to severely limit our people's ability to move by air, a major aspect of our national defense, and a crucial form of transportation of vital importance to any programs the committee selects. Although recommended by the Automation Commission back in 1966, we still think there is an urgent need for basic research into how to make the"labor" factor of production effective. We would like to be able to get in on the ground floor to encourage basic research in production technology that will have built-in pollution control, more rewarding job conditions, and an end to the insatiable lust for profit. Yet workers are being subjected to the pressures of an insipid energy conservation program, and the cuts in general aviation will be seriously affected by a decline in our domestic market.

General aviation is an important and vital industry in the American economy.
and an important factor in the U.S. international trade arena. It could literally be shut down by the President's action. And yet this important industry consumes less than 1 percent of the total fuel used in the entire transportation network of the United States. What sense does it make to cut the segment of transportation up to 50 percent, and yet the savings which would be made would be truly negligible?

General aviation is fulfilling an ever-increasing important role in both this country and worldwide. Thousands of communities lack adequate transportation service by any method; air, rail or road. There exists in these communities a priority need for the continual availability of the readily convenient transportation service to the rest of the Nation, which general aviation provides. General aviation public air transportation is expanding at an unprecedented rate. Charter and air taxi flying is increasing substantially. In 1972 the number of persons using the commuter airlines was 5.4 million or 20 percent of the use by 18 percent. An estimated 70 million people are carried in intercity travel, and 60 percent of those carried are between airports without airline service.

The Service has recognized the flexibility of general aviation in transporting the mail at convenient times and outside areas not served by the scheduled carriers. As a result, Post Office contracts of general aviation has increased 40 percent.

As part of the total air transportation network, general aviation plays an important role. General aviation provides needed transportation service in a number of special areas that are not served by scheduled airlines. It provides service to cut the segment of transportation up to 50 percent, and yet the savings which would be made would be truly negligible?

Cutbacks of the magnitude ordered by the President will render the air transportation network unable to provide the public the service it needs and may force the Nation into a rationing of airline seats similar to that during World War II when a priority travel system had to be established to insure that essential transportation was available.

Such a stark situation was probably not even contemplated by those in the White House or the President himself when this patchwork emergency policy was promulgated. It simply indicates that little if any thought has been given to the consequences of stranding our air transport system with the level of cutbacks required.

Mr. President, air transportation, like every other segment of our economy, must make sacrifices in order to conserve fuel and must be forced to eliminate or curtail wasteful or unnecessary operations. But air transportation cannot be singled out to make reductions far in excess of those ordered on other forms of transportation. All forms of transportation must be treated alike and equitably, particularly in light of the fact that all of air transportation taken as a whole only consumes about 5 percent of the total transportation energy resources.

I would now like to discuss briefly the need for flexibility in the Sunday closure of gas stations on our Interstate Highway System. It is my understanding that he finds the bill acceptable.

In this regard, another bill, S. 2589 which would authorize the Secretary of Commerce to adopt an energy conservation program in accordance with the specific needs of his State as he sees them in a manner which would be in the best interest of the State.

Mr. CANNON. If a State draws up a plan to meet the 25-percent reduction level without adopting each and every provision outlined in the bill, and the plan is accepted by the White House, would this be acceptable in terms of fulfilling the requirements of the bill?

So in other words the governor can mold the energy consumption program in accordance with the specific needs of his State as he sees them in a manner which would be in the best interest of the State.}

Mr. JACOBSON. Yes, if the reduction level can be achieved by the State, the Federal Government would accept the State's reduction plan as an alternative to a State's conservation program. The legislation recognizes that what may be necessary in one particular State's economy, may be vital to another State's economy. Therefore, if the State can achieve the reduction desired, the White House would accept a plan to meet the minimum adverse impact on local, State, and regional economies and employment levels.

I have discussed this with the distinguished floor manager of the bill and it is my understanding that he finds the amendment acceptable.

Mr. JACKSON. Mr. President, I believe that this amendment, which the Senators from Nevada offer, helps to clarify the intent of the legislation. Mr. CANNON. Mr. President, the amendment is self-explanatory. It simply writes into the bill that the Governors and the State plans have flexibility in meeting the desired reduction requirement so that it will have a minimum impact on the local industries and the local economies of a particular State and area involved.

Hence the question, why close on Sundays? Why not some other day during the week more amenable to the nature of a State's tourism industry? The methodology should be left up to the Governors of the various States who can best judge the oil consumption savings should be made. As long as the permitted percentage of reduction are met, how it is done should not be rigid and inflexible.

I have just received the following telegram from Senator Jackson, calling attention to the urgency of this program:

I have sent the following telegram to President Nixon: I urgently request clarifications of your emergency calling for all day Sunday closure of gasoline stations nationwide. Nevadans have strongly demonstrated their willingness to make sacrifices in the face of an acute energy shortage and will continue to exert every equitable effort to drastically reduce energy consump-
tion. But the burden which would be imposed on these States by all day Sunday closure of all oil refineries is such that emergency measures will effect the heartline of Nevada's economy—tourism—and constitutes a more potentially greater economic sacrifice than is the case in other States. Nevadans are willing and prepared to further reduce energy consumption and are encouraged by the knowledge that emergency measures will be carried out with a minimum damage to the economy, as specified in the Emergency Energy Act already approved by the Senate and now before the House. All day Sunday closure has a potential of robbing thousands of our citizens of their tourism oriented jobs. In accordance with the language of the proposed Emergency Energy Act, I therefore strongly urge that you permit gasoline sales in each State to decide the day on which they will shut down their pumps.

Michael O'Callaghan, Governor of Nevada.

I call upon the President to seriously consider the flexibility written into Sec. 2589 and to reassert his hasty action by restructuring his policy to reflect even-handed and proportionate cuts in all modes of transportation and in all industries.

EMBARGO ON U.S. OIL EXPORTS AND THE NETHERLANDS

Mr. PERCY. Mr. President, admittedly the United States is in the midst of an energy crisis, a crisis that is going to grow worse before it gets better. One of the proposals often mentioned as a means of conserving energy resources here at home is to place an absolute ban on the exportation of U.S. petroleum products. That is an understandable reaction and one which I can support in general. However, we should retain some flexibility and not place an absolute mandatory ban on the export of all U.S. petroleum products.

There are friends of the United States, such as the Netherlands, who may find themselves in such desperate straits at some point in the future that we will want to be able to provide them some petroleum. Admittedly, the energy shortage here at home will be severe—a cut of 10 to 17 percent in total energy supplies. But the Netherlands, almost totally dependent on Middle East oil, may suffer an 80 percent or more cutoff in supply. While the energy crisis may mean discomfort for Americans it could mean total disaster for a country such as the Netherlands, a country facing cold and deprivation only because it refuses to condemn the right of Israel to existence. I am sure the American people would understand and would be willing to accept a further cutback of much less than 1 percent in our total energy supplies this winter if it meant the difference between life and death in the United States.

Therefore, Mr. President, I think we should retain the ability to export petroleum products if necessary to help our friends and we should reject a total ban on petroleum products.

CHILDE N AND PRODUCT SAFETY

Mr. HARTKE. Mr. President, more than a year ago, the President signed into law the Consumer Product Safety Act. This legislation established a Consumer Product Safety Commission to establish standards which would assure the public against hazardous products.

One of the prime beneficiaries of this law would be the thousands upon thousands of children who are killed or injured each year as a direct result of hazardous toys, household products, and poisons.

Among the foremost objectives of the Commission was expected to be development of regulations which would require the use of child-resistant containers. To date, however, the Commission has not acted.

Mr. President, I ask unanimous consent that a letter on this subject from the Sunbeam Plastics Corp. of Evansville, Ind., together with an article from Food & Drug Packaging be printed in the Record.

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

SUNBEAM PLASTICS CORP.,
Evanstville, Ind., October 31, 1973
Senator Vance Hartke,
Russell Office Building,
Washington, D.C.

Mr. DEAN ELAM HARTKE: Our company is a manufacturer of safety closures—and, we like to think, one of the leaders in the field. With the advent of the Poison Prevention Packaging Act we mounted an extensive research and development program which has resulted in more than thirty patents in the field of child-resistant closures. We have spent several hundred thousand dollars in tools and equipment in anticipation and expectation that the law would be implemented.

We, and other manufacturers of safety packaging components, are considerably disturbed by the complete absence of implementation since the Consumer Product Safety Commission was established more than a year ago. I am enclosing copy of a letter I have written to Mr. Simpson, Chairman of the CPSC, outlining our views.

PREMISELY the FDA, through its BPS, believed there was a justifiable basis for these proposed regulations.

The inordinate administrative delay has created chaotic mass confusion in the industry. Anti-freeze is a specific case in point. Nine months have elapsed since its proposed regulation was published in the Federal Register. Seven months have passed since expiration of the date comments were due.

Marketers, contract fillers, plastic bottle manufacturers, metal container producers, closure manufacturers—all are completely in the dark as to when the CPSC is going to take action on issuing the final regulation. Plans for the 1974 winter season are left dangling in costly mid-air.

Hundreds of thousands of dollars have been spent by the industry in evaluating various child-resistant containers. Changes in filling line equipment, shipping containers, market tests, etc., in anticipation that a regulation issued by the Commission in time to permit efficient and orderly planning for the 1974 season. Regulated standards in this regulation at the CPSC office have been met with noncommittal silence. This has given rise to numerous rumors rampant in the trade. Examples:

1. The CPSC has voted approval of a regulation but it has been "pocket vetoed" on your desk.

2. The largest anti-freeze marketer has convinced the Commission that there are no satisfactory safety closures available. (The facts are there is a market for the CPSC to consider. Sunbeam itself has two styles that have passed government-specified protocol.)

3. There is not sufficient closure capacity available. (The fact is that Sunbeam itself has in production now, or will have by January, more than enough capacity to supply the entire anti-freeze industry.)

4. The regulation has been stalled at the request of a major marketer for "more time." Hopefully, this request has been satisfied by the Commission to order safety packaging for the 1974 season.

5. The CPSC plans to issue no additional regulation of any kind and is considering present regulated categories as filling the entire product need for anti-freeze containers. This latter rumor was probably fostered by...
the attitude of marketers whose products may be candidates for child-resistant packaging is a challenge. It is now in position of the pertinent section is as follows:

"There's good news and there's bad news."

"The Consumer Product Safety Commission isn't likely to require additional product categories to be placed under regulation."

"Now, the bad news:"

"The CPSC is going to crack down on the existing 'PPPA regulations.'"

It is obvious that marketers consider economic cost factors involved in safety packaging a small price to pay for the saving of lives as being "good news."

The safety packaging industry is at the crossroads, Mr. Simpson. It is now in position of the filling the requirements of product categories awaiting issuance of a regulation."

Further stalling, inaction and indecision by the CPSC will result in a quiet deflation and dismantling of industry programs originally designed to meet the safety packaging needs of the nation's marketers of toxic products. A call now for action can prevent a partial or total withdrawal of the initiative, ill-advised judgment in view of the fact the CPSC was signed into law nearly three years ago. We strongly believe the safety packaging industry is entitled to some straight answers from Government—now. I hope we may look forward to getting them."

Sincerely,

E. A. CARSON, President.

CPSC WILL EMPHASIZE ENFORCEMENT OF PPFA REGS

The purposes of the Consumer Product Safety Act are:

(1) to protect the public against unreasonable risks of injury associated with consumer products;

(2) to assist consumers in evaluating the comparative safety of consumer products;

(3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) to promote research and investigation into the causes and prevention of product-related hazards.

WASHINGTON.—Finding that approximately 20 million people are injured by products each year (and that, of these, 131,000 are permanently disabled and 80,000 are killed), Congress last year passed the Consumer Product Safety Act which the President signed into law on October 27, 1972.

The purposes of the Act listed above are to be fulfilled under the direction of the Consumer Product Safety Commission. Activated on May 14, 1973 when four of the five commissioners (there is still one vacancy) were sworn in, the Commission has the authority to regulate over 10,000 different products.

In addition to the Poison Prevention Packaging Act, the Commission has also been handed three other laws previously administered by other agencies. Of the nine laws which make up the "dangerous environment" date passed from 7 to 12 months ago. Certainly these categories were subjected to thorough study and evaluation before regulation was proposed. Surely 7 to 12 months is adequate time to evaluate comments and reach industry. The fact is that any questions in regard to any product category are pretty elementary and the answers readily available.

1. Is the product toxic?
2. Is there a record of significant injuries, illnesses or fatalities resulting from ingestion by children?
3. Will child-resistant packaging effectively reduce injuries and fatalities?"
In the old Bureau were transferred into the Commission upon its activation, May 14, 1973.

What size staff does the CPSC have? We presently have around 560 people—about 300 in the staff and the balance in Washington. And we’re authorized—if Congress approves our budget, and I think they will—to add another 80 people, and that would give us around 580 people—sir. 

Congress wanted to see our budget in its original form and responses go to the Congress and to the other agencies go to the Commerce. Our reports, appropriate agency. We do not report to the HEW or any other Federal agency. We report, and we hear that complaint also. And we investigate.

The field staff is very different than it was under the Bureau of Product Safety. When the CPSC was part of the FDA, the work in the field was done by the FDA field force which, we understand, is going to be winded down, and nobody is buying them. So maybe we can help make the two.

In our work, we've investigated, it seems that part of the problem is that a particular manufacturer wants to work with a particular closure and refuses to commit—extensive to everybody who wants closures from the same source, since that supply may be limited. And long as closures are available from any source, we feel that there is no need to extend the standard.

Do you have plans for evaluating the effectiveness of the CPSC in preventing child poisonings? Through the National Electronic Surveillance System (NESS), we should be in a position to measure the effectiveness of a given action. There are some difficulties with respect to the PPPA regulations, since there is no standardized test, but some parents may be purchasing this packaging.

Do you plan to use the authority of the Consumer Product Safety Act to provide tougher enforcement of the law? If so, we are inclined to apply the full enforcement process.

The system does provide quite a bit of information—the age of the person injured and treated in emergency wards. You can extrapolate this information and determine with some degree of accuracy all of the product-related injuries in the nation that are treated in emergency wards.

What NEISS does not tell us about, however, are the injuries reported to physician's offices or those from death certificates. We need a survey to capture those emergencies wards and then are admitted to hospitals.

The best guess is that of all injuries, about 40 percent are treated in emergency wards. If we could verify this figure and if we could verify that the types or injuries are treated elsewhere, then we wouldn't need to gather information for physicians' offices.

The system is a valuable source of information—the age of the person injured and the product involved—which we use as a basis for in-depth investigations for regulatory actions.

Do you anticipate changes in the testing protocol for child-resistant packaging? There are one or two new tests at present.

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Have you noted a shortage of special packaging available? Some aerosol containers, for example, have high safety closures, and nobody is buying them. So maybe we can help make the two.

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What are the possibilities, then, for mechanical tests such as the procedures that the American Society for Testing and Materials (ASTM) is working on? I think these should be worked on because the protocol seems like a good one. What I think we should do is have go back to the protocol. If you look at some of the closures, you would think that they are not in compliance with the protocol, that you could define that particular closure in terms of some fairly simple engineering studies.

So maybe mechanical testing could be used in additional to the protocol. I'm not sure now.

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non-complying product, the penalty will be 100 percent. It is only penalty in to seize the product or a particular batch of products, then that's not very severe. So the manufacturer can move ahead freely.

We don't expect to inspect the entire marketplace for compliance. We plan for the manufacturer to do that, because it will be a very serious matter if we catch a non-complying product.

WHO TO CALL
For more information on the PPRA, industry representatives should contact:
Dr. Robert Behr, Director
CPSC Bureau of Consumer Science
Consumers can contact CPSC by writing directly:
Consumer Product Safety Commission
Washington, D.C. 20207
or through one of the 14 field offices (see chart).

With respect to "unsafe products," consumers should call the CPSC Bureau of Compliance at (801) 496-7631.

KEEPING ENFORCEMENT IN PERSPECTIVE
(By Ben Miyares)

There's good news and there's bad news. First the bad news.
The Consumer Product Safety Commission isn't likely to require additional product categories to comply with the Poison Prevention Packaging Act in the immediate future.

Now, the bad news.

The CPSC is moving to crack down on the existing PPRA regulations. At least that's the impression you get from Richard Simpson, Commissioner of the fledgling Consumer Product Safety Commission which has taken over from the FDA's Bureau of Product Safety the administration and enforcement authority for the Poison Prevention Packaging Act.

Dick Simpson talks tough. In his recent conversation with PDP he makes it clear that in safety matters in general and in regard to the PPRA in particular, there's been a decided shift away from further rule making and more toward enforcement of the regulations on the books.

Congress, he points out, has armed the CPSC with some pretty impressive policing weapons not included in the FDA's PPRA arsenal. The CPSC can assess fines of as much as $1 million dollars, criminal penalties up to $500,000 and jail sentences of up to a year for individual offenders.

He has given the word, sabre yet, but he makes a point of rattling it as he talks about the CPSC's authority.

This new regulatory posture, while significant, would be far more serious if child-resistant packages were in short supply. Happily, the number of concepts that have passed the established testing protocol continues to grow.

Unfortunately, one thing the FDA's Bureau of Product Safety failed to fully comprehend during its reign—and something the new commissioner of the CPSC does not yet fully appreciate—is the fact that a package that passes protocol won't necessarily pass a packager's quality control muster.

And packagers have felt the CPSC crunch most acutely in relation to the time (or lack of it) allowed for compliance once a regulation is finalized. In setting forth the CPSC's tough enforcement posture, Mr. Simpson hopefully will be guided not only by the letter of the law, but by a packager's spirit of compliance and due consideration of the "real life" production problems faced by packagers.

POINT OF VIEW
"It has long been recognized that no amount of shift in regulatory testing can ever demonstrate the absolute absence of harm. All that one can ever show with certainty is the existence of harm. The impact of any product therefore carries with it an inescapable but undeterminable risk.

This shift in regulatory posture, while significant, would be far more serious if child-resistant packages were marketable or through one of the 14 field offices (see chart).

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THE NEED FOR AN INDEPENDENT PROSECUTOR

Mr. BAYH, Mr. President, the lead editorial in this morning's Washington Post aptly points out still another loophole which the President and the Acting Attorney General are attempting to use to prevent the present Special Prosecutor, Mr. Jaworski, from looking into areas that the White House does not want investigated. When Mr. Jaworski's appointment was announced, the Acting Attorney General said that he would not be fired as Mr. Cox was in the same situation. The President and the Acting Attorney General have to grant pardon powers to the White House to prevent Mr. Jaworski from looking into the White House. Mr. Bork has amended his guidelines to prevent that possibility. Mr. Bork's guidelines do not want investigated. When Mr. Jaworski's appointment was announced, the Acting Attorney General said that he would not be fired as Mr. Cox was in the White House.

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and Senator Baker have decided that they should not delve further into them. "If I don't make a move, I'm going to throw the cloak of national security over something because we are guilty of something. I am simply saying that where the national security cloak should be deserved by having an investigation, the President has the responsibility to protect it, and I am going to do so."

So, we have from Mr. Nixon's own mouth his notion of the breadth of the Special Prosecutor's authority. He would have upheld Mr. Cox that his job was solely the Watergate matter—excluding, presumably, investigations of Big Oil, organized crime, campaign contributions and IRS—and, but for the insistence of Messrs. Kleindienst and Petersen, he would have kept the prosecutors out of the burglary of Dr. Ehrlichman's psychiatrist's office. Yet, in California, that "national security" burglary has produced four criminal indictments and in the Federal District Court here, it has already produced another indictment with more, presumably, to come. Nevertheless, as of Nov. 17, Mr. Nixon did not seem to have tailored his national security cloak to any significant degree.

It is quite possible that the cloak Mr. Nixon now wears is in fact much too broad. By his promiscuous use of such terms as national security, presidential papers and presidential confidentiality, Mr. Nixon has effectively disqualified himself as a competent judge of what the Special Prosecutor's responsibilities are appropriate. Fortunately, Mr. Bork's latest addition to Mr. Jaworski's charter is disconcerting in view of the White House's demonstrated desire to hem the investigators in at every turn. The least the public should require of this latest procedure is that there be full disclosure of each negotiation the Attorney General's office. However, this has given the Executive Branch discretion over which cases would be pressed.

The Federal Reports Act of 1942 was enacted to protect the Nation's business secrets and to restrict access to reports by requiring in most cases such forms be approved by the Bureau of the Budget. In practice, the act has made it possible for the OMB to exercise a good deal of control over the investigatory functions of the regulatory agencies.

The power of the OMB over regulatory agencies is further extended through OMB's role as the clearance officer of legislative proposals. The OMB审查s the agency legislative proposals for consistency with the agency's mission and with the stated priorities of the agency. The OMB also advises the President on the agency's priorities and policies.

The historical development of executive control over regulatory agencies through these means I have mentioned others is well documented by Commissioner MacIntyre's testimony in my article, one of the most important contributions to the struggle for regulatory independence. The long, stagg­ered terms of the Commissioners—breaks down when a President serves two terms. The New York Times reported on May 6 of this year that of 38 positions on the six major regulatory bodies, the present administration appointees numbered 28. Furthermore, the new appointees represent less of an ideological mix than those during the terms of previous Presidents.

Many observers feel that the executive branch is currently moving ever rapidly toward increased control over the regulatory agencies. In any event, the Winter 1969 issue of the Federal Bar Journal, entitled "The Status of Regulatory Independence," then-Federal Trade Commissioner Evertette MacIntyre points out in his article, one of the most important contributions to the struggle for regulatory independence, the long, staggered terms of the Commissioners—breaks down when a President serves two terms. The New York Times reported on May 6 of this year that of 38 positions on the six major regulatory agencies, the present administration appointees numbered 28. Furthermore, the new appointees represent less of an ideological mix than those during the terms of previous Presidents.

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itself just how closely the congressional intent in establishing the independent "arm of Congress" has been honored. By a careful, comprehensive study, the Senate can look closely at the problem and prescribe the remedies. It is essential that this act be implemented to build upon the intended reforms.

I ask unanimous consent that the article entitled "The Status of Regulatory Independence," be printed in the Record. The Senate was ordered to be printed in the Record, as follows:

THE STATUS OF REGULATORY INDEPENDENCE

(A By A. Evert MacIntyre)

Introduction

The advent and growth of the railroads, improved and expanding methods of communication, developing an ever-increasing diversity of business, caused a mushrooming of commercial intercourse between the States. The regulation of this commerce the Government, through the Congress of the United States. When Congress had come to realize, however, that it would not be able to deal with all the myriad problems of regulation by way of legislation from one detail to the next, it assumed that Congress had the knowledge and wisdom to make such decisions and did decide, on the basis of a physical impossibility; at least a part of this task would have to be delegated. Congress, therefore, determined upon the theory of separation of powers it would be inappropriate to delegate, to the extent Congress desired to do so, the function of enacting in legislative details to either the Judiciary or the Executive Branch. At the same time Congress was to delegate a certain amount of executive functions to the extent they might be appropriate, to the extent Congress might wish to act. Congress, therefore, realized, however, that under the separation of powers as declared by the legislature is to apply. But we said that the constant recognition of the necessity and validity of such powers would be independent from the Executive Branch in the following way:

Regulatory independence thus refers to independence from the Executive Branch in the following way:

1. The desire for impartial regulation not dependent on the needs of the political party in the background. The desire for impartial regulation not dependent on the needs of the political party in the background.

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extent on the economic expertise available to it. Similarly, the brunt of enforcement activity under the Merger Clauses is usually borne by the Commission. There can be little doubt that concurrent jurisdiction by an independent regulatory agency and the Department of the Executive has resulted in more effective and successful law enforcement than exclusive jurisdiction by one governmental body. The development of the Executive Department of the Government has had upon regulatory independence. Of the plethora of statutes enacted for various purposes, many of them have been intended to have some considerable impact upon the substantive work of an agency. E.g., what Congress may have intended to be an administrative statute, where it was deemed necessary to give the Chief Executive certain authority in the interest of economy, efficiency and the orderly conduct of business, developed into a means of Executive control over substantive programs of an agency unforeseen and inconsidered by Congress.

A. THE BUDGET AND ACCOUNTING ACT OF 1921

The first Act passed by Congress which adversely affected the Independence of regulatory agencies was the Budget and Accounting Act of 1921. Congress acted on the supposition that executive agencies were touched with corruption and inefficiency. Its purpose was to regulate the Budget and Accounting of the Federal Government. All administrative agencies were to submit their budgets to the Bureau of the Budget for review and approval. The Act was designed as a means of Executive control over substantive programs of an agency unforeseen and inconsidered by Congress.

The Act specified that the budget and requests for appropriations submitted to the Bureau of the Budget, created by the Act, would be subject to review but at the same time permit an agency to have budgets and requests for appropriations contrary to the intent, if necessary. The Act also specified that the Bureau of the Budget would be required to make a report on the budget as filed; this report would be submitted by the Commissioner to the President in the President's budget, without revision, and would be made available to the Congress for review. The budget was a means of Executive control over substantive programs of an agency unforeseen and inconsidered by Congress.

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B. THE JUDGES ACT OF 1925

The next development affecting the independence of regulatory agencies was the Judges Act of 1925. The purpose of the Act was to reduce jurisdiction of the Supreme Court and, in the words of the President, to put the Court on its mettle. The Act sought to restrict jurisdiction of the Supreme Court to cases involving the construction of the Federal Trade Commission's powers. The Act stated that the only cases which would be included in the nation's budget were those which were submitted to the Bureau of the Budget, created by the Act. The Act specified that the budget and requests for appropriations submitted to the Bureau of the Budget, created by the Act, would be subject to review but at the same time permit an agency to have budgets and requests for appropriations contrary to the intent, if necessary. The Act also specified that the Bureau of the Budget would be required to make a report on the budget as filed; this report would be submitted by the Commissioner to the President in the President's budget, without revision, and would be made available to the Congress for review.

The Judges Act of 1925 was intended as a means of Executive control over substantive programs of an agency unforeseen and inconsidered by Congress.

C. THE FEDERAL TRADE COMMISSION ACT

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D. THE BOARD OF FOREIGN TRADE COMMISSIONERS ACT

The next development affecting the independence of regulatory agencies was the passage of the Board of Foreign Trade Commissioners Act of 1914. The purpose of the Act was to reduce jurisdiction of the Supreme Court and, in the words of the President, to put the Court on its mettle. The Act sought to restrict jurisdiction of the Supreme Court to cases involving the construction of the Federal Trade Commission's powers. The Act stated that the only cases which would be included in the nation's budget were those which were submitted to the Bureau of the Budget, created by the Act. The Act specified that the budget and requests for appropriations submitted to the Bureau of the Budget, created by the Act, would be subject to review but at the same time permit an agency to have budgets and requests for appropriations contrary to the intent, if necessary. The Act also specified that the Bureau of the Budget would be required to make a report on the budget as filed; this report would be submitted by the Commissioner to the President in the President's budget, without revision, and would be made available to the Congress for review.

The Judges Act of 1925 was intended as a means of Executive control over substantive programs of an agency unforeseen and inconsidered by Congress.
about one-third of the Commission's requests for agency-originated legislation." 20 The Senate's obligation to consider such legislation, however, is even more exacting than that of the House of Representatives.

As early as 1888 concern mounted over increasing governmental activity in the collection of information. Particularly the small size of Federal agencies made it difficult to cope with the avalanche of Federal and State forms and reports he was required to receive. A complex and complete system of data collection was developed. The impact of these plans, once they were implemented, was profound. Inasmuch as the chairman holds a majority of its own vote, the Chair may in effect decide whether to reopen, continue or close any Investigation. A majority of respondents and not less have been required to respond to a request for information originating with any governmental agency. The Act provides that requests for information originate with any governmental agency and directed to more than nine respondents must receive clearance by the Bureau of the Budget. Requests for such clearance must be accompanied by a detailed explanation of the questionnaire, such as technicalities of implementation, manner of selecting the respondents, whether the information is to be collected by mail or personal interview. In addition, the request must be justified in depth. This would include a statement why the information is sought and how it will be used; why the particular number of respondents and not less have been selected; how will take a response to answer the questionnaire, etc. In ruling upon such requests the Bureau of the Budget extends so far as to bidding collection of all or a part of the information sought. In case of the traditionally used questionnaire, for example, the Bureau of the Budget is satisfied that this is the only practical method of getting the necessary information and that it is not available through some other governmental or more readily accessible private source.

The power of review within the Bureau of the Budget is to permit or reject the bidding collection of all or a part of the information sought. In case of the traditionally used questionnaire, for example, the Bureau of the Budget is satisfied that this issuance altogether, or it may strike certain questions—a matter entirely within its discretion.

Congress. In its haste to pass this bill, however, did not heed the warning of those opposed to it then but it points out that the House of Representatives may exercise a good deal of control over the legislative functions of the independent agencies. With respect to the Federal Trade Commission this repre-
parent that independence from Executive control has been materially weakened.

The second aspect concerns the statutory language upon which the court and the Department insisted—§ 518 and § 519 of Title 28, United States Code.

Section 516 provides that:

"Except as otherwise authorized by law, the Attorney General, in the discharge of the duties of the United States, an agency, or officer thereof is a party, and shall direct all United States attorneys, assistant attorneys, or special attorneys appointed under section 543 of this title in the discharge of their respective duties. A suit brought by, or authorized by, or in the name of the United States, an agency, or officer thereof is a party, and shall direct all United States attorneys, assistant attorneys, or special attorneys appointed under section 543 of this title in the discharge of their respective duties.

The precise limits of regulatory independence have not been spelled out, and judicial expressions on the point have been scant. Some guidelines, however, have been established. When the Attorney General assumed the duties of his office in 1933, he desired to establish his own economic policy. Roosevelt felt that in the execution of this policy he needed control of the Federal Trade Commission. This he intended to accomplish by removing one commissioner openly opposed to Roosevelt's economic policies, Commission Worker Humphrey. Roosevelt at first asked Humphrey to resign, on the ground that the attorney general did not have the authority to institute court proceedings for the purpose of enforcing the Act; but after some intervening correspondence it was agreed that the court would be the proper forum for the enforcement of this provision of the Act. As a result, Senator Edwin C. Johnson from Colorado introduced a resolution for the purpose of having the Attorney General appointed under section 543 of this title in the discharge of his duties.

The most recent development affecting the Federal Trade Commission was the Eighth Circuit's 1968 decision in Reorga-

This insertion, however, was again only because it was vigorously sup-
ent agency solely on the basis of incompatibility of views rather than for the reasons specified by the Court. Roosevelt, however, insisted on the Supreme Court decision in Myers v. United States. There the Court held that Congress had exceeded its authority in trying to limit the President's power to remove an executive official who had been appointed by the President upon the recommendation of the Senate. In a dictum the Court further indicated that the President had the unlimited right to remove members of quasi-legislative and quasi-judicial bodies appointed to him by Congress.

After reviewing the legislative history of the Federal Trade Commission Act and the debates in both houses, the Court stated that: [Mr. Justice Stone's opinion begins]

"[T]he language of the act, the legislative reports, and the general purposes of the legislation as reflected by the debates, all combine to demonstrate the Congressional intent to create a body of experts who shall gain experience by length of service—a body which shall be independent of executive authority, except in its selection, and free to exercise its judgment without the least constraint, be it by the President or any other official, or by any department of Government." 3

In the event of the President's removal of a Commissioner, the Court pointed out that the President has no right to remove a Commissioner by firing him. If he did, the President would be exercising the functions of the Commission and stated that: "It is quite evident that one who holds his office during the pleasure of the President shall be dependent on the will of the President to maintain an attitude of independence against the latter's will." 4 A more succinct explanation of the necessity for the Commission's independence is found in the

Conclusion

These are some of the outstanding developments which make judicial independence rapidly becoming more fanciful than factual. Congressional intent was clearly shown from the outset that the quasi-legislative and quasi-judicial activities of the Commission were to be independent and free from the influence, direction or oversight of the Executive Branch. The Court's decision, therefore, gave particular consideration to the relationship between regulatory independence and the quasi-judicial activities of the agency. [Mr. Justice Stone's opinion continues]


4 Supra, note 3, "An Independent Agency and the President's Removal Power."
matter of fact, there was widespread belief at the time that the fact that a Commissioner argued that a case might have cost the Commission the decision.

The Urgent Deficiencies and Appropriations Act of 1913, 38 Stat. 2031, provides that "Except as otherwise provided by law, the conduct of litigation in which the United States is a party, or is interested, and securing evidence therefor, is reserved to officers of the Department of Justice; the decision of the Attorney General." While the phrase "conduct of litigation" is broad enough to encompass any court action of the Federal Government as a litigant, the existence of a law providing for the intervention of the Attorney General is a fact which makes the origin and history of this section of the Act of 1913, 38 Stat. 2031, deal with in further detail in subparagraph 14 of this section of the Act of 1913, 38 Stat. 2031, is not clear that it does not refer to Supreme Court review, R.S. 339, 360, and 362. This question is dealt with in further detail in subparagraph 14 of this section.


Prepared for the Commission on Organization of the Executive Branch of the Government.

"With the exception of appointments to the major administrative units within an agency, which would require approval of a majority of commissioners."

These plans were labeled in the following manner: Reorganization Plan No. 8, F.T.C. Reorganization Plan No. 9, FPC; Reorganization Plan No. 16, SEC; and Reorganization Plan No. 13, CAB. 5 USC 1932-15 (1964). See also 5 USC 901-913 (1964 Supp. III).

"And with notation he would not support the Commission's position if certainii were granted. The Supreme Court denied certiorari, with Justice Douglas of the view that certiorari should be granted. Borden Co. v. F.T.C., 339 F. 2d 856 (7th Cir. 1964); Callaway Mills Co. v. F.T.C., 362 F. 2d 485 (5th Cir. 1966); F.T.C. v. Standard Oil Co., 362 F. 2d 497 (5th Cir. 1966); Borden Co. v. F.T.C., 381 F. 2d 175 (5th Cir. 1967); Knoll Associates, Inc. v. F.T.C., 397 F. 2d 530 (7th Cir. 1968).

"Mr. Smith, do you want to listen to what I have to say before you vote on the case?"

"Mr. Speaker, I did not want to go on the record about this problem, but I would just like to make the record clear that this is the boldest trespass upon the power of this body."
CONGRESSIONAL RECORD—SENATE

November 29, 1973

p. 3603

Despite the extraordinary burden of the drought in Mauritania, the country, led by President Moktar Ould Daddah,

ANNIVERSARY OF THE INDEPENDENCE OF THE ISLAMIC REPUBLIC OF MAURITANIA

Mr. HARTKE. Mr. President, on November 26, the Islamic Republic of Mauritania, is celebrating the 27th anniver-

sary of its independence. I think it would be proper for us to offer our congratulations to the Mauritanian people on this day and send them the best wishes of this body.

Situated at the Atlantic Ocean edge of the drought-stricken Sahelian region of Africa, Mauritania has struggled mightily to overcome the devastating effect of the dryness that has denied it the ability to feed its population. Mauritania has coordinated very effectively the international drought-relief effort in which the United States has played a significant role. Our country has contributed over 40 percent of the grain donated to Mauritania by friendly countries and international organizations this year.

The Mauritanian people have many times expressed their gratitude for this American assistance. We will have the pleasure of carrying on this important role since the rains have failed again this fall, and the Mauritanian Government expects that it will have to add a large majority of its population in the months to come.
is working hard to develop its economy and it is actively seeking U.S. private investment to help in this task. The Mauritanian Ambassador to the United States, Ahmedou Abdallah, is meeting regularly with American businessmen to tell them about the opportunities in his country.

Beyond prospects at economic development, Mauritania is playing an active international political role which it sees natural for itself—that of link and mediator between the Arab-berber north of Africa and the Sahel-south. President Ould Daddah's leadership in Africa was recognized when he was elected President of the Organization of Islamic Countries in 1969. In recognition of its active role, Mauritania was elected to membership in the United Nations Security Council starting in January 1974.

To sum up, Mr. President, Mauritania is a hard-working country, beset by tremendous problems, but determined to succeed. It is grateful for U.S. help in the past and is moving forward to further cooperation with this country in the future. I think Americans can admire the serious-minded and dedicated attitude of Mauritania and, while congratulating of the national day, we should sincerely extend our best wishes for the future.

**NOISE POLLUTION RULE FOR THE SST**

Mr. TUNNEY. Mr. President, one of the saddest stories in the long fight to reduce aircraft noise is the years of delay by the Federal Aviation Administration in promulgating a noise rule for the SST. It now appears that FAA inaction may be abetted by a "project report" prepared by some staff of the Environmental Protection Agency—which describes an aircraft noise certification rule for supersonic civil aircraft.

Today, the Environmental Defense Fund has notified the FAA of its intention to file suit unless the requirements of section 611 of the Federal Aviation Act, as amended by the Noise Abatement and Control Act of 1970, are met within 60 days. That letter spells out, in detail, why such a suit may now be the only alternative. More than 3 years ago, EDF asked the FAA to set a noise standard for SST's equal to the noise criteria of FAR part 36 for subsonic aircraft.

Nearly everyone who commented on this proposal, including the Airport Operators Association, strongly endorsed the EDF position. In October 1972, my distinguished colleague, Senator CRANSTON, introduced an amendment to the Noise Control Act of 1972 which would have made FAR part 36 standard for subsonic aircraft applicable to SST's. Mr. President, that amendment carried the Senate by an overwhelming vote.

And yet the FAA has continued to do nothing on this issue. The EDF letter of intention to file suit contends that the effect of this delay is to undermine the FAA's very ability to protect the public health and welfare from excessive noise, because of continuing investment in a design for the Anglo-French Concorde SST which is apparently incapable of meeting the standard which the FAA has determined is necessary to protect the public from excessive noise from new subsonic jets. EDF argues that unless the FAA inact [illegible] in the SST will only increase the likelihood of sacrificing the public health and welfare to economic expediency.

Mr. President, I also received this afternoon a copy of the Senate Report on this. This second document is an unofficial draft of an SST noise certification rule which has been prepared and circulated by certain personnel within the Environmental Protection Agency, but which does not carry the approval of the Director of EPA's Office of Noise Abatement and Control. This draft was sent out to about 200 persons today, including the manufacturers of the Concorde.

Mr. President, this unofficial draft is a disaster. It would allow the Concorde and the Russian TU-144 to make noise on takeoff of up to 117 EPNdB. This will be heard by airport neighbors as roughly twice the level that Concorde's type certificate would be allowed to produce under its weight class were it to meet FAA part 36. This is manifestly deficient of the will of this body as expressed last year in the vote on Senator Cranston's amendment. This is squarely contrary to the recommendations of nearly everyone who commented on the EDF petition in 1970.

It will come as no surprise to all of the people who live around our major international airports, who are being asked to sacrifice their health and welfare to the unwillingness of the Concorde manufacturer to make necessary design changes. The unlimited U.S. certification of the Concorde—perhaps the most fuel-gulping and uneconomic aircraft yet developed—in this time of energy crisis is by no means the point of view of the protection of the environment, such certification would provide no possible benefit to the people of this country. It would merely further add to the noise pollution.

Mr. President, I ask unanimous consent to print the two documents which I have referred in the Record.

There being no objection, the documents were ordered to be printed in the Record, as follows:

**RECOMMENDATIONS FROM "PROJECT REPORT: AIRCRAFT NOISE CERTIFICATION RULE FOR SUPersonic AIRCRAFT" (By William C. Sperry)**

The recommended supersonic aircraft noise certification rule should contain the following elements:

1. All supersonic aircraft (except the Concorde and TU-144) applying for type certification shall meet the noise criteria of FAR Part 36 for subsonic aircraft (effective date of this rule).

2. Future developments in source noise control and operational procedures should be reflected in modifications to the rule as soon as technically feasible. The FAA's role is to indicate that noise levels for these aircraft should reflect the maximum use of available technology to produce as low a noise level as feasible.

3. Aircraft having applied for type certification, or having made their first flight (Concorde and TU-144) prior to the publication date of the rule shall be exempted from meeting the FAR 36 criteria noise levels for subsonic aircraft. Noise levels for these aircraft should reflect the maximum use of available technology to produce as low a noise level as feasible.

4. The Concorde and TU-144 certification should be contingent upon meeting the noise levels at the FAR 36 measuring points listed in Table II.

**TABLE II**

<table>
<thead>
<tr>
<th>Concorde</th>
<th>TU-144</th>
<th>Subsonic aircraft</th>
</tr>
</thead>
<tbody>
<tr>
<td>FAR 36 measurement points in EPNdB</td>
<td>670</td>
<td>DC-8</td>
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</tbody>
</table>

5. The criteria levels of Table II may be exceeded at either the sideline or takeoff measuring points if the exceedance is completely offset at the other (sideline or takeoff) measuring point.

6. Appendices A and B of FAR Part 36 should be applicable to all SST aircraft. Appendices C and D should apply to supersonic aircraft designs and be applicable to the Concorde and TU-144 except for the noise level criteria.

Comparing the criteria levels of Table II with Figure 10, it is seen that there is an allowance for reasonable growth. Any growth beyond the initial allowances is accomplished on the basis of a one to one EPNdB tradeoff reduction. Also, comparing the criteria levels with the typical subsonic aircraft noise levels listed in Table II (from Reference 6), it is seen that the values for the SST aircraft are comparable except for the sideline point. However, for most airports, the sideline levels are not as important as those for takeoff and approach.

**ENVIRONMENTAL DEFENSE FUND,**
Washington, D.C.

Re SST Aircraf. Noise Regulation.

HON. ALEXANDER P. BRENNER, Administrator, Federal Aviation Administration, Washington, D.C.

Dear Mr. Brenner: As you know, Sec. 611 of the Federal Aviation Act, 49 U.S.C. Sec. 1431, as amended by Sec. 7(b) of the Noise Control Act of 1970, carries the description of Noise Abatement and Control, which we have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom.

The mandatory language of Sec. 3611 ("The FAA shall prescribe," etc.) is carried over, with various modifications, from the
original version of Sec. 611 enacted in 1968, P.L. 90-411, 82 Stat. 995. Before the enactment of Sec. 611, the Congress, in its earlier version of Sec. 611, which was introduced by Senator Case on April 25, 1970, and the Senate Committee on Interstate and Foreign Commerce explained that:

The intent was that the FAA was merely authorized to establish standards, rules and regulations and their application in the certification process. The bill reported by the Senate Committee on Interstate and Foreign Commerce states that the ‘‘FAA is not intended to give the FAA discretion to abridge those duties through the device of a protracted failure to “find” that regulation of aircraft noise is “necessary.”’’ 114 Cong. Rec. 16584-99 (House), 20915-31 (Senate), 90th Cong. 2d Sess. (1966).

Moreover, Sec. 611 plainly states that ‘‘in fulfilling these affirmative duties, the FAA is to act in such a way as “to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom.”’’

Likewise, the debate on this bill make abundantly clear that Sec. 611 was meant to impose affirmative duties on the FAA. As Senator Case stated in introducing the Senate version of Sec. 611, the Senate Committee on Interstate and Foreign Commerce ‘‘has done nothing is that it has made a conscious decision to delay indefinitely in proposing an aircraft noise regulation. In this instance, EDF requested that the regulation be promulgated within a reasonable time. The bill reported by the Senate Committee on Interstate and Foreign Commerce states that the “find” that regulation of aircraft noise is “necessary.”’’

On November 9, 1972, your predecessor as Administrator, Mr. Shaffer, assured Senator Case that the FAA would promulgate an SST noise regulation. That assurance was immediately rebutted by a letter dated November 14, 1972, from the FAA’s Washington Counsel, Environmental Defense Fund, Washington, D.C., December 5, 1972.

The FAA has implied a decision not to promulgate any regulations, including an SST noise regulation, while the Environmental Protection Agency (EPA) in its final report of its study of the SST has concluded that the SST is likely to be substantially and lasting damage to the public health and welfare, and to the quality of the human environment.

Moreover, we are informed that the FAA is now in the process of type certifying the Concorde under Sec. 608(g) of the Federal Aviation Act, 49 U.S.C. Sec. 1423(a), which requires, the very encouragement which will be the very encouragement which will be the very encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which will be thevery encouragement which 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tion on our proposed noise standard for supersonic aircraft is not considered necessary at this time since its publication is imminent."

Sincerely,
CLIFFORD P. CASE, U.S. Senator.

LET'S GIVE BUREAUCRATS CREDIT

Mr. PROXMIKE. Mr. President, those persons who man the Government agencies are an "easy target," as Elizabeth Drew recently pointed out in a WTOP editorial. I have aimed my bars from time to time, also. But for this point—one I believe needs emphasis—is that Federal workers are dedicated. They are honest. They are, indeed, "a force for stability." We owe them great respect. Our Workers—professionals, the managers, and the clerical workers, as well—gratitude for their efforts to do their jobs under trying circumstances.

Mr. President, I ask unanimous consent that Elizabeth Drew's commentary be printed in the Record.

There being no objection, the commentary is ordered to be printed in the Record, as follows:

BUREAUCRACY

We have heard so much that is disturbing about the political uses to which our government has been put, that we might overlook a very important, and more hopeful, fact. The bureaucracy, that much maligned group, serves us very well. Despite the pressures, and temptations, that are put upon it, we have a remarkably, impressively, honest government. It is the word, government, civil servants, to honor them, for we owe them a great deal. Right now, despite great strains, they are holding our government together.

The government bureaucracy is an easy target. It is too large, too slow, too saddled with rules and regulations that keep things from happening, too protective of the status quo. But so is almost every other bureaucracy—in corporations, universities, news organizations. There is something in human nature that has an instinct for bureaucracy—its simplification of what is to be done. Washington bureaucrats are not exceptional in this respect.

But they may be exceptional in another one. The idea of a professional government service is that it is to be protected from partisan pressures. The Nixon administration appears to have misunderstood this, as it misunderstood the roles of many institutions in a free, democratic society. Many of those who tried hard to protect the independence of the civil service have left the government. Many government workers are demoralized. Many of them fear that their reputations have been tarnished by recent events. But this should not be the case. Most government workers are there for idealistic reasons—they believe in what they do. And many of them restated great pressures. They are a force for stability. They may be as honest a government bureaucracy as there is in the world.

We should honor them.

FRANCHISES—THE WAY TO FLY—OR WALK

Mr. HARTKE. Mr. President, I would like to bring to the attention of my colleagues another area of concern under my franchise bill. My bill, S. 2467, provides for the fair disclosure of information between participants to a franchise agreement.

The train of abuses in the area of franchises has barely begun to surface. Not only are the abuses felt among the participants, but the consumers of goods are equally subjected to the risk of show or no show. The risk, generally without exact measurement, can, I submit to my colleagues, be here measured by its outside boundaries. Therein will be seen the loss of services, investments, and savings to consumers, investors, stockholders, and businessmen.

Mr. President, I ask unanimous consent that a letter and its enclosures received by me be printed in the Record.

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

AMERICAN SOCIETY OF TRAVEL AGENTS, INC.


HON. VANCE HARTKE, U.S. Senator, Washington, D.C.

DEAR SIR:

Hartke: A copy of your bill, S. 2467, recently introduced in the Senate, has come to our attention and we are anxious to let you know our interest in the subject of franchising.

Enclosed for your information is a copy of a letter to Attorney General Louis Lefkowitz regarding the industry which, if accurately reported, is extremely misleading, an instance of inaccurate claims by a traveling industry franchiser, International Travel Masters.

Please keep us informed of the progress of your legislation and how we may be of assistance to you in this effort.

Sincerely,

ARTHUR SCHIFF, Staff Council.

AMERICAN SOCIETY OF TRAVEL AGENTS, INC.

LOUIS J. LEPKOWITZ, Attorney General, State of New York, New York, N.Y.

Dear Mr. Lepkowitz: As champion of the consumer and as a public official concerned with misleading advertising, I would like to bring to your attention the enclosed article from the newspaper, Travel Weekly, dated June 8, 1973. The article reports on a recent experience in New York City during which the President of a Philadelphia travel company spoke to a group of prospective franchise purchasers about the prospect of success in the travel agent industry.

Included in the article are a series of claims regarding the industry which, if accurately reported, are extremely misleading. If not downright untrue, among other statements the speaker is reported to have made are the following:

"Almost every travel agent in New York and Northern New Jersey is making $35,000 to $40,000 a year."

The travel agency industry is a $8 billion industry. These claims are simply not true. Perhaps you would agree it appropriate to investigate the circumstances of the meeting with a view toward disciplinary legal action if false and misleading claims were, in fact, made.

The American Society of Travel Agents is anxious to cooperate with your office in any and all efforts to assure that misleading and inaccurate claims about the industry do not result in business and personal disappointments and financial loss to the detriment of the individual, the travel agent industry and the general public.

Very truly yours,

ARTHUR SCHIFF, Staff Counsel.

FRANCHISORS PAINT ROSE IMAGE FOR PROSPECTS: GOLDEN LIFE AS RETAILER PINNED AT $1,700

(By Bob Davis)

NEW YORK.—A rosy picture of one-man travel agencies selling large numbers of travel group charter tickets and an average of $1,700 in take-home sales is being painted for prospective franchisees by a Philadelphia firm, International Travelmasters.

At a recent New York meeting, William A. Nash, president of the new company, told an audience of 75 prospective purchasers that "almost every travel agent in New York and Northern New Jersey is making $35,000 to $60,000 a year."

Travelmasters offers to provide a training course to investors for $1,700 and grants exclusive rights to the name in a specified zip code area for $600. The investor can buy the rights to several zip codes at the same date.

Nash told his audience last week that the road to success as a travel agent could be found by concentrating on TGC and affinity charter sales as well as the walk-in cruise business, and by avoiding the whole matter of shrewd Government contracts and selling point-to-point tickets.

For those who insisted on providing such services, Nash offered this approach: "You can qualify for ASTA and get your travel benefits."

Another plume awaiting the Travelmasters franchises is the fraternization of President Ford in travel in and Leonard Travel in Jenkintown, Pa.

Henze and Loreta Lorenzon, described as the firm's "travel industry's top sales reservations agent in Washington, D.C., apparently represent the bulk of the "over 45 years of travel experience in the travel industry" which Travelmasters boasts.

Nash identified himself last week as a professional salesman. He is listed in Travelmasters' promotional literature as president of the North American Land Development Corp., a firm which he described as selling "most of the land in the Poconos," head of a company which produces banding machines for use in packaging, and chief executive of a holding company called Group 7.

Nash said that Travelmasters' entry into the travel franchise field was prompted by the creation of a new division, group charters last fall. He did not reveal whether he had any previous experience in the travel business.

International Travelmasters has its headquarters in Philadelphia. According to Nash, the firm opened an office in New York City last weekend. The name of the firm is similar to that of a Philadelphia wholesaler, but it apparently has no connection with any other company in the travel business.

In its presentation to the New York audience, Travelmasters described a potential travel agency operation which differed significantly from profiles developed in industry.
CONGRESSIONAL RECORD—SENATE

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research, such as the recent Louis Harris study conducted for Travel Weekly, the promotional material given to the audience indicated that the Travelmasters agent would do exactly what Mr. Humphrey had his business associates do, and the Harris survey showed that cruises accounted for 12% of overall agency sales.

Travelmasters franchises are also projected to obtain 60% of their income from either TGC or affinity charter sales generated by other arrangements, whereas respondents to the Harris survey indicated that only 18% of their income came from these sources.

Nash said that Travelmasters offices initially would be selling TGC programs operated by others, but that the firm intended eventually to operate its own TGC programs. He emphasized that "we have no intention of permitting travel agents to sell Travelmasters packages now or at any time in the future."

He admitted that TGCs had been a failure to date but insisted that this only "has made obvious the need for a network of people to answer questions about us."

He said that appointed travel agents were not marketing or selling TGCs. "If they can get commission on a $400 trip, they don't want commission on a $179 TGC."

"Travel is not marketing people," he said. "They've had it good for a long time."

When asked by an audience member why appointments should not be sought, Nash responded that his million-dollar business could direct them to a New York agency with appointments which could be purchased for $40,000, but pointed out he was offering an entry into the travel business for only $1,700.

At the end of a two-and-one-half hour presentation, 75 of the original group of 76 were left in the room, filling out application.

He said that applicants would be investigated and a selection board would advise those who had been acceptable to Travelmasters.

The following descriptions of the travel business are only a few of the optimistic statements made by Travelmasters spokesmen to convince prospective franchisees:

Almost every travel agent in New York and northern New Jersey is making $35,000 to $60,000 a year."

"The real agency industry is a $300 billion industry."

"Travel group charters for the first time have turned air travel into mass transportation."

"A CAB official said recently there would not be enough travel agents by 1980 to handle the business."

Let Us Be Honest With the American Consumer

Mr. HUMPHREY. Mr. President, the October statistics on consumer price increases and changes in real earnings were released just a few days ago. I want to make a few comments as to these numbers in perspective so they can be understood by the average American worker and his family.

I have spoken on the subject many times in the Senate, arguing that Nixon's economic policies are seriously injuring consumers, and pleading with the President and his advisers to alter their economic policies so as to protect consumers and to meet the needs of the average American worker and his family.

Instead they have chosen to go about their business as usual. They have turned the Nixon economic gospel to the American consumer, their message being that the average American consumer "never had it so good." Well led by the President, they have continued to feed the consumer/real average income with food and fuel prices to about $2,400 on food and fuel prices.

This year, however, this family food spending has jumped to about $2,640, an increase of $440.

The October statistics also reveal major price increases for most other items in the consumer's market basket. The service index rose over 1 percent last month, and had risen at a seasonally adjusted annual rate of about 11 percent over the last year. The index for nonfood commodities rose 9 percent, about twice the usual increase for October.

As we might expect, price increases for gasoline and fuel oil accounted for much of the nonfood price increase, with gasoline prices up 3 percent in October and fuel oil and coal jumping about 6 percent last month. In the last year, gasoline and motor oil prices have increased 10 percent and fuel oil and coal have increased about 20 percent. And unless steps are taken to hold prices down, these increases are likely to tip the scales on inflation.

The price trend is definitely up.

Housing is still another area where the recent inflation has had a severe impact on the American consumer. Housing prices jumped over 1 percent in October alone. This was largely due to the higher mortgage rates that result from excessively high interest rates. Housing costs have increased more than 10 percent in the last year.

For our average family with a $10,000 a year annual income, these price increases mean that it must now pay at least $200 a year more for housing.

These price increases are by themselves sources of considerable concern. But as Dr. Stein has said, the real question is, What is happening to the real purchasing power of consumers as both last year, and money incomes have increased?

The latest Bureau of Labor Statistics, data on real earnings in October 1973, unfortunately, show that the real purchasing power of the American worker and his family is actually declining.

Over the last year, real average weekly earnings have declined from $110 to $108. Real gross average earnings decreased six-tenths of 1 percent from September to October. A rise in average hourly earnings was offset by a decrease in the work and increases in the consumer price index.

Other measures of the real purchasing power of consumers also show that inflation has taken its toll on the consumer pocketbook. Take-home pay, for example, showed a sharp drop in October, as well as a significant drop since October of 1972. Real spendable earnings declined 3.3 percent during the last year.

As one can readily see, even from this brief analysis of the October statistics, the real standard of living of most Americans was eroded in 1973. It does no good for us to continue to pretend that the problem doesn't exist. The President never swallowed the administration's line that, "they never had it so good." They knew better.

They are a lot smarter about their own wealth than the most pessimistic economists realize. And it may be that pretending the consumer is well off when he is not
will lead to additional economic problems. It certainly undermines the people's confidence in Government, and is no help in reducing the President's credibility problem.

It is time for the President and his spokesmen to level with the American consumer. There is the seriousness of the current inflation, its impact on consumer well-being, and the serious likelihood that present policies could lead to a recession in 1974.

FOREIGN RELATIONS COMMITTEE:
DRAFT RULES FOR CONSIDERATION OF AMBASSADORIAL NOMINATIONS

Mr. FULBRIGHT: Mr. President, earlier this year the attempt by the Committee on Foreign Relations to write a set of draft rules for its own guidance in the consideration of ambassadorial nominations was publicized. Immediately at issue was the question of political contributions to represent the United States abroad. It certainly undermines the people's confidence in our foreign policy when it is shown that present policies could lead to a reversion to the sort of ambassadorial appointments which present-day Washingtonians think of as a fact of life of our national commitment.

The key factor in the choice of any ambassador is to gain the confidence of the candidates and the American public that the nominee is of clearly demonstrated foreign policy competence or experience, that he appears to be expected of ambassadorial language in the country to which the nominee is to be accredited.

Before proceeding further with the draft rules, the committee decided to obtain the views of the Department of State and the American Foreign Service Association on its efforts. I believe that their replies will be of interest to the Senate and ask unanimous consent that this correspondence be printed in the Record.

While the committee, for the moment, has laid aside further consideration of the draft rules, I believe that the attempt has already been fruitful and has clarified the committee's and the State Department's search for the qualities expected of ambassadorial nominees.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

HON. WILLIAM P. ROGERS, Secretary of State, Washington, D.C.

DEAR MR. SECRETARY: When you appeared before the Committee on Foreign Relations on April 30, 1973, you commented on the interest Committee Members have shown in the question of campaign contributions and (ambassadorial) appointments. You said you thought this concern was "excellent" and that you had "talked with the President about it and he agreed . . . that this is a good thing to be thinking about this subject. This "is not just an evil that affects any particular Administration," you said. "It is a system," you continued, "and we ought to see what we can do to provide some proper safeguards." Your remarks were directed primarily to the problem of the relationship between political contributions and the nomination of non-career ambassadors.

In recent weeks the committee has discussed several ground rules which it believes might provide guidance to the Committee in acting on such appointments. Because of your expressed interest, the committee, which has not yet acted on these draft rules, invites here in the Record and the comments of the White House if that seems appropriate to you. In addition, the committee has an exact copy of this letter to the Chairman of the Board of Directors of the American Foreign Service Association for the purpose of obtaining its comments regarding the nomination of ambassadors.

The Draft Rules are as follows:

Rule one: The Committee, in the absence of clear demonstration of competence or experience, will oppose confirmation of ambassadorial nominees whose prima facie qualification for appointment rests on monetary political contributions (direct or indirect) in excess of [65,000-10,000] in any geographic area such as Europe, Latin America, etc., is unbalanced.

Rule two: The Committee will scrutinize hereafter with special care all ambassadorial nominations, career and non-career, to ascertain the nominees' political contributions and legislative branches of the United States Government by means of a treaty, statute, or resolution of both Houses of Congress specifically providing for such commitment; 4. agreement to give the Committee a confidential statement of his or her financial holdings and to appear and testify before duly constituted committees of the Congress; 5. knowledge of the history and current economic and political problems of the country in which the nominee is to be accredited; 6. familiarity with, or ability (quickly to acquire) the use of the language in question in general diplomatic use and willingness to acquire a workable use of the dominant language in the country to which the nominee is to be accredited.

The key factor in the choice of any ambassador is to gain the confidence of the candidates and the American public that the nominee is of clearly demonstrated foreign policy competence or experience, that he appears to be expected of ambassadorial language in the country to which the nominee is to be accredited.

I look forward to having your early comments.

Sincerely yours,

J. W. FULLBRIGHT, Chairman.

HON. J. W. FULLBRIGHT, Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of June 29, 1973 to Secretary Rogers. We are glad to have the opportunity to comment on your Committee's regarding the nomination of ambassadors.

Some of the points raised in the Draft Rules have legal and policy implications which we want to discuss with Secretary Rogers. Hence, I am writing to let you know that a reply to this letter will be delayed until we can talk to him after he returns from East Asia.

Sincerely yours,

KENNETH BUSH, Acting Secretary.


HON. J. W. FULLBRIGHT, Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am responding to your letter of June 29, 1973, asking for comments on the question of campaign contributions and ambassadorial appointments.

The key factor in the choice of any ambassador is to gain the confidence of the candidates and the American public that the nominee is of clearly demonstrated foreign policy competence or experience, that he appears to be expected of ambassadorial language in the country to which the nominee is to be accredited.

The key factor in the choice of any ambassador is to gain the confidence of the candidates and the American public that the nominee is of clearly demonstrated foreign policy competence or experience, that he appears to be expected of ambassadorial language in the country to which the nominee is to be accredited.

I feel that formal percentage limitations on noncareer ambassadors are not needed, but as a matter of background information, over a period of at least the last 25 years, the percentage of noncareer ambassadors has remained rather consistently near the level of 20 percent. I agree that it is preferable, if possible, to keep the ratio of career to noncareer ambassadors in the various regions from becoming "unbalanced," and we will endeavor to distribute the non-career ambassadors more than has been the case in the past. However, I think we should anticipate that there will continue to be a concentration of non-career ambassadors at certain posts.

I agree that ambassadors should respond to requests to appear and testify before duly constituted committees of the Congress when asked. Sometimes they may feel it necessary to request to be heard in Executive Session. This has been our consistent policy.

This Administration firmly believes that close cooperation between the Executive and Legislative Branches is essential and desirable in the field of foreign affairs. However, as a matter of background information, we do feel that there are at least some areas of actions within the scope of the definition of national commitment contained in S. Res. 85 of June 25, 1969 which Congress has constitutional authority to enter into. Therefore, in that case we have not accepted and cannot now accept the position that the President alone has no authority to undertake any national commitments.

We would, of course, be prepared to see the committee's ascertaining the views of nomi-
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nees on the question of close cooperation be­
tween the Congress and the Executive Branch in undertaking commitments for this na­tion.

I trust that the Committee recognizes that a request for an ambassador to express per­sonal views would be, and to offer recommen­dations which in some instances might differ from the official policy he is called upon to administer, could quality him as an individual in a very difficult position. I trust you will continue to allow each indi­vidual officer to determine to which levels he wishes to discuss his personal views on a given subject.

As an example, noncareer ambassadors should provide confidential statements of financial holdings, and they have been doing so for some time in accordance with State Department regu­lations and other applicable provisions of law. I suggest that the purpose of these statements is not to avoid a "potential con­flict of interest" but rather to avoid a "sub­stantial conflict of interest or the appearance of such a conflict."

I agree that ambassadors should become acquainted with the history and current economic and political problems of countries to which they are appointed. While they need to be proficient in the local language, they should achieve proficiency in the language of the host country, and their proficiency may be better achieved if they have previously lived in the country, or if they have lived in the United States or in countries of similar culture and language. This may be true of many ambassadors both career and non-career, from doing exemplary work in the foreign service.

As the final point suggested by your Committee, I believe a distinction should be made between nominations to positions as representatives to international organiza­tions and as chief delegate to a conference. As far as international organiza­tions are concerned, it would appear unness­sary to require that each position carrying the rank of ambassador be so designated by law, since the Senate under existing arrange­ments has the power to give or to withhold its advice and consent to each nomination in the light of the rank to be conferred on the designated position.

As an example, as regards the United Na­tions, I believe the Congress was wise not to specify a rank for non-career appointments, because many persons in addition to our Permanent Representative should have the rank of amb­assador. As in the case of the Permanent Repre­sentative, the rank of ambassador is a question of title; it is important that the person so designated be familiar with the local language, and may even be unnecessarily time-consuming in countries with languages that are not widely spoken or where there may be several local languages. I think it is important to keep in mind that lack of familiarity with the local language has not hindered many ambassadors, both career and non-career, from doing exemplary work in the foreign service. 

In conclusion, I believe it would be a mistake to make our decision before they have made theirs—but rather be dependent upon our own specific needs at the time.

I should like to take advantage of the fact that the President has authority under 22 USC 901 (c), as amended by Section 107 of Public Law 92-352, to confer the rank of ambas­sador "in connection with special missions of the President for an essentially limited and temporary nature of not exceeding six months."

We have sent a copy of your letter to the American Foreign Service Association and requested and understand that the Associa­tion's comments will be sent directly to you. Kindest regards.

Sincerely,

KENNETH RUSH,
Acting Secretary.

AMERICAN FOREIGN
SERVICE ASSOCIATION,

HON. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
Washington, D.C.

DEAR MR. CHAIRMAN: For half a century, the American Foreign Service Association has been dedicated to increasing the profes­sionalization of the Foreign Service. As the official representative of the 12,000 men and women of the Foreign Service, we appreciate the opportunity to comment on your letter of June 29 to Secretary Rogers regarding ambas­sadorial appointments.

AFSA strongly concurs, Mr. Chairman, in the desirability of establishing ground rules for use by the Senate Foreign Relations Com­mittee in evaluating ambassadorial nomina­tions. We are in full agreement with the objectives and standards set forth in your letter.

The Association is particularly pleased with efforts by the Committee to preclude a long-standing abuse which has been per­petrated by both political parties—the au­tioning of ambassadorships. AFSA has always maintained the principle that the United States deserves to be represented abroad by the best qualified ambassadors. The selec­tion of any ambassador, career or noncareer, should be based primarily on competence and experience in foreign affairs. We believe the application of exacting standards to all appointments would help to ensure that both career and noncareer ambassadors are of the highest caliber.

The application of such standards would require AFSA and the Foreign Relations Committee to preclude any nomination which in the judgment of the Association, or State being found the best qualified indi­viduals in the vast majority of cases. We recognize, however, based on our past ex­perience, that the appointment of distin­guished individuals from outside the career service in some cases would be entirely jus­tified. Many of these individuals have made extraordinary contributions to American diplomacy. However, the experience of our officers, in our judgment, with a very few exceptions, this country has not been well­ served by those ambassadors whose sole or primary qualification has been their level of contributions to the party in power. This Association, therefore, strongly opposes efforts by the Senate Foreign Rela­tions Committee to preclude ambassadorial appointments based upon political contribu­tions and controversial fortunes, or other questionable criteria.

We have the following comments on the specific guidelines proposed by the Com­mittee.

Rule one, first paragraph: As noted above, we support entirely efforts to preclude am­bassadors who have engaged (direct or indi­rect) to the most recent presidential cam­aign exceed $5,000.

AFSA strongly opposes the intent of this paragraph, though we note the difficulties inherent in hard and fast percentages. To our knowl­edge, in no other professional foreign serv­ice does the percentage of noncareer amb­assadors approach even ten percent. Cer­tainly, fifteen percent should be sufficient to warrant the Senate to demand, or to be considered a factor. The Association concurs with the Committee that there is no valid reason why, in any geographic area, the percentage of noncareer ambassadors should be substantially higher than other geo­graphic areas. The past practice of assigning a highly disproportionate number of noncareer ambassadors to areas of Europe has not only distorted career oppor­tunities in the Service, but has not been to the advantage of our European allies. In this regard, we wish to point out that lack of personal fortune should not be considered a factor. These officers should have the professionally best qualified amb­assadors in London, Paris, Tokyo, etc., even though this would not happen to be personally wealthy.

Rule two: AFSA supports the purposes of the six points under Rule two. We recognize that the Senate has constitutional preroga­tives which implicate obligations to the Senate on the part of any officer of the government, including ambassadors, in addition to his or her obligations to the President. Nonetheless, ambassadors abroad are the representa­tives of the President. Their duty is to ex­ecute foreign policy in keeping with the decisions of duly elected officials. Any re­quirements which force an ambassador to con­fess in a congressional hearing, in our view, ambassadors and career officials should not be drawn into the inevit­able constitutional struggles between the branches of government, career and noncareer officials should not be drawn into the in­evitable constitutional struggles between the branches of government in testifying on their respective foreign policy roles, and, as officers of the Executive branch, they should carry out instructions in keeping with whatever decisions result from the interac­tions between the two (or three) branches of the government.

We have the following comments on the specific points in rule two:

Paragraph one: AFSA is confident that all career ambassadors with whom we have con­tacted have testified before the Committee on the questions presented by the provisions of this paragraph. We understand that this provision is based on the belief that career ambassadors should not be required to appear and testify before the Committee upon request. The obligation to testify on certain constitutional issues which go beyond the career official's competence to address.

Paragraph two: AFSA supports the intent of this paragraph, though we do not believe that it raises similar constitutional issues.

Paragraph three: We understand that this paragraph incorporates language which is similar to a law in
Paragraph five: APSA supports the purpose of this paragraph. While we believe relevant experience and knowledge of foreign affairs should be the predominant considerations, a full knowledge of the country to which the nominee is to be accredited should be highly desirable. We would suggest, however, several modifications to broaden the topics about which a nominee should be knowledgeable, and to make it clear that a superficial knowledge—which could be acquired quickly—is not sufficient.

A thorough understanding of the history, culture, international relations and current political, economic and social problems of the country to which the nominee is to be accredited would be essential. Paragraph six: We strongly agree with the Committee on the desirability of emphasizing foreign languages in assessing the qualifications of any ambassadorial nominee, whether a career or noncareer officer. However, the issue is a bit more complex than the Committee's proposal would indicate. In the first place, the so-called "hard languages" (such as Japanese, Chinese and Arabic) are extraordinarily difficult to learn, particularly at the age of most ambassadorial nominees. The current exacting language requirements imposed on junior and middle-level officers in the Foreign Services of State and USIA, and the ambitious training programs in all three Agencies, have demonstrated that there is a sufficient pool of officers trained in these languages from which the President can make his nominations. However, this is not the case, and the rule proposed by the Committee might thus preclude a number of nominations. Moreover, in a few countries, for the ambassador to learn one of the dominant local languages is not sufficient, would give the impression of taking sides in ethnic conflicts within the host country. To avoid these problems and place even greater emphasis on foreign languages as a qualification to hold the position of Ambassador, we would suggest the following modification:

6. Either:

(1) A proven working knowledge of the language of the country to which the nominee is to be accredited,

(2) A proven working knowledge of the language in general diplomatic use in the country of accreditation, and the willingness and ability of the nominee to learn the language of the dominant language of the country to which the nominee is to be accredited, provided that the acquisition of such knowledge is practicable and desirable.

We recognize that even this modification may not meet every contingency (e.g., Mong- ula, where not only the indigenous population understands but also the languages in diplomatic use are "hard" languages), but, as a guideline, we believe that the wording we have proposed would suffice for almost all circumstances.

Rule three: We agree with the purpose of this rule. However, the wording of the final bracketed clause appears to unduly restrict the consideration of the following alternative language: or unless a majority of the principal representatives of member or participating governments bearing similar responsibilities are accorded the title of Ambassador.

In closing, let me repeat how much we, as a profession, appreciate this effort on the Committee's part to improve the professional caliber of American ambassadors. But in selecting potential nominees for Ambassadorial service, great care should be taken to assure that only those best qualified for the position are appointed. Political connections and personal fortune are poor substitutes for professional competence.

In nominating career officers, the same principles should apply. Ambassadorial appointments should not be granted as a reward for diligent service to a particular position or function, but should be based on the satisfaction that the officer selected is the best individual available to serve in a particular post. In this regard, we recognize that service laterally into the senior ranks because of political or personal connections qualify as bona fide career professionals.

If the Senate's proposed guidelines are adopted, the percentage of all ambassadorships held by career officials will increase substantially. The Administration should use this opportunity to give greater consideration to the selection of ambassadors from among senior career officials of AID and USIA. The senior ranks of these two agencies contain a number of highly qualified, dedicated career professionals who would make outstanding ambassadors. Implementation of the new guidelines should provide an excellent opportunity to utilize their expertise.

Finally, we request your attention to give careful consideration to those senior officials qualified to serve as ambassadors who are members of minority groups, black men, women, or women so that our representation abroad will reflect the diversity of America's pluralistic society.

We also suggest that in filling ambassadorial positions with individuals from outside the career service, special attention be given to the nominees' commitment to the service of distinguished Americans such as David Bruce, Henry Cabot Lodge, Averell W. Harriman, and many others as American ambassadors. But in selecting potential nominees for Ambassadorial service, great care should be taken to assure that only those best qualified for the position are appointed. Political connections and personal fortune are poor substitutes for professional competence.

Mr. MUSKIE. Mr. President, Carl M. Marcy, who has been chief of staff of the
REMEDIES TO THE ENERGY CRISIS

Mr. GRAVEL. Mr. President, the United States, the greatest industrial Nation in history, is facing the most serious challenge to its economic and productive stability since the depression years of the early 1930's. The energy crisis facing this country is not a problem which will simply go away. This is a crisis which will become even more severe, will undoubtedly cause much personal discomfort and economic dislocation to the American people. And my State, Alaska, perhaps more than others, will feel the effects of the crisis because of its harsher climate.

But Alaska and the other 49 States can meet the challenge and minimize the impact of the crisis if we are better prepared for what it is—a long-term shortage of energy resources. In the short term we must deal with the crisis by conserving energy whenever it is feasible. But the energy problem is obviously not a long-term solution. We must develop a plan now to provide for our long-term energy requirements.

Let me say that I fully support most of the administration's programs for curtailing demand as a short-term solution. The lowering of temperatures and driving speeds, the lessening of air service and display lighting, and the banning of Saturday gasoline sales can all contribute toward eliminating the shortfall in energy supplies we would otherwise experience. While these may not be easy steps for all to accept because they will cause some economic hardship, the loss of the number of unemployed, they are necessary steps to insure that home heating and other fuels are available to meet our country's energy needs.

However, two other steps have been discussed frequently, neither of which I could support—a ban on Sunday driving and heavy taxes to reduce consumption. I believe that pleasure driving on weekends must be limited, but a total ban on driving is unthinkable in Alaska. The distances people must travel to attend church and for other necessary travel forecloses a total ban being a viable alternative. Last year the real income of wage earners declined 2 percent because of inflation. This is why it would not only further aggravate this problem by imposing a hefty price increase in energy products through taxation, the proceeds of which would in no way be used to increase supplies. There are two other possibilities of which I am not fond, but which may become necessary—rationing and relaxing environmental restrictions. Even under a well-developed plan, rationing is inequitable to some and cumbersome to all. I sincerely hope that we do not have to resort to rationing. Relaxing environmental restrictions would probably increase energy supplies.

But citizen sacrifices are not long-term answers. We must increase our supplies. Only if we can return to our normal level of energy consumption will we be able to maintain our independence and self-sufficiency. We must increase energy production significantly.

The President has announced a policy of self-sufficiency. This is certain a desirable goal, and one that I believe we can attain. But the President's policy stops with the announcement of the objective—he has not explained how we would get to a point of energy independence.

This is like announcing a desire to send a man to the Moon and then not funding any program to get him there. A resolution is not enough. We must also have a plan and a funded program. I propose that we establish an independent research and development administration funded by a trust fund to finance a program of investigating and developing the potential of alternative fuels, studying more efficient methods of energy collection and conversion, and financing demonstration projects to test the commercial feasibility of new technologies.

To attain self-sufficiency, we must commit much more than the $10 billion suggested by the President. The $10 billion is a minimum estimate. The $100 billion suggested by others. Overcoming the energy gap should be worth at least as much as putting a man in space, and we should be willing to spend that much and more. While we are talking about large sums of money that must come from taxes, the rather large expenditures must be viewed within the context of the size of the problem they are combating.

Even a 10-year, projected funding level of an average of $10 billion a year, for a total of $100 billion, may turn out to be the most we can afford. The $100 billion must be used to develop our domestic energy supplies. The funds could be raised by a minimum tax on energy supplies at the source. The funds would go into a trust fund to be used for domestic research and development only.

The earmarking of funds for energy research would insure that the moneys are used only to develop the technology which may have economic attractiveness for the sources of power, and their development would diminish our dependence on our nonrenewable sources whose production capacity is decreasing.

We have both long and short-run problems with the energy crisis. The President has responded to the short-run problem by constraining demand, which is about as a lone immediate. But we cannot live forever with 50 mile-per-hour speed limits, inadequate supplies of home heating oil, and high unemployment. In the long run we must increase energy production. And unless specific action is taken, our domestic energy supplies will decrease rather than increase, and we will still be dependent on foreign suppliers.

The long-run solution is the trust fund. We can have Project Independence by 1980; we can have a stable supply of the energy required to heat our homes, run our cars, and power our factories.
column this morning in the Washington Post—

The nation is being ill-served by half-baked measures which not only will not solve the problem, but doubtless will make it worse.

The administration's program to deal with the energy crisis is obviously inadequate. The President, himself, admitted in his address to the Nation on Sunday evening that the measures he proposed will, at best, reduce fuel consumption by only 10 percent, while the shortage will be about 17 percent.

Failing to immediately take the steps that are required to deal with the energy crisis will only aggravate an already serious problem. The President's energy program is characterized by one word "delay." By putting off urgently needed action, the President is playing "Russian roulette" with the American economy. This is a very dangerous game to be playing with the jobs, income, and production of America. I urge the President to begin now to provide the Nation with the aggressive leadership we need to minimize the impact of the energy crisis on our people.

I ask unanimous consent that Hobart Rowan's excellent article from today's Washington Post, entitled "Crisis of Leadership," be printed in its entirety in the Record.

[From the Washington Post, Nov. 28, 1973]

CRISIS OF LEADERSHIP

(By Hobart Rowan)

A strong President would have taken strong steps to cope with the energy crisis. But Mr. Nixon is a weak President, desperately clutching at straws, desperately clinging to his office. As a result, the nation is being ill-served by half-baked measures which not only will not solve the problem, but doubtless will make it worse.

At the same time, American industry has shown that it, too, has been wearing blindfolds. In Detroit, where the chief executives haul down anywhere from $440,000 a year (Chrysler's Lynn Townsend) to $875,000 (Henry Ford II)—executive salaries for the first time have been shown to have been $1 million or more. And thousands of workers are facing layoffs that needn't have come if the top men had really earned their plush salaries.

Michael Davis of Chase Econometric Associates, Inc. puts this latter point as well and as bluntly as anyone:

"The market share of standard-size cars fell 7 percent last year, which is as much as it had fallen during the previous seven years. There is absolutely no hint that Ford had not been a secret in executives from an industry which has more daily and weekly data than any other.

"I personally know of several instances where middle management argued strenuously last year that production lines should be reconstructed. Yet this argument fell mostly on deaf ears at the top executive level. John deLorean's abrupt departure from GM was based on more than long boring staff meetings."

To come back to Mr. Nixon's poor performance in the energy field. It is obvious that he is doing everything he can to make it appear the energy crisis is temporary, one that can be handled with relatively simple solutions.

He told the Seamfanners' Union that the crisis would not last much more than a year, the direct opposite of what his own chief energy experts have been telling him and telling reporters.

The blunt truth is that even if the Arab oil embargo were to be lifted in a matter of months, this is based on the assumption that time, and only by a short run, for which prices for what supplies are available are much more expensive. As cumbersome as it is, rationing would be better than throwing short supplies on the market and letting everyone hustle for what he can get.

But an even more serious consideration is the President's bland insistence that give us a year or so, and it will be business as usual. Lurking behind such a statement must be the desperate hope that the Arab nations can be pushed out once again.

American policy should be based, as Treasury Secretary Shultz said the other day, on the assumption that Arab oil sales will forever be resumed.

"If we don't take a lesson from this, and pay the price for our own inept-
cient, we're just crazy," says Shultz. He's right, but his boss hasn't got the message. Mideast oil, it must be remembered costs less than 10 cents per barrel to produce. But ever since 1971, the cartel of oil-producing nations has been hiking the price to astronomic levels by raising the tax on oil exports. Thus, even if a real Arab-Israeli peace were somehow achieved, the oil producers' monopoly could still be an intolerable scarcity and drive the prices up at will.

Thus, the U.S. needs a crash program to develop oil from shale and coal, to explore off-shore, to stimulate energy production from solar and nuclear sources, and to strengthen ties with the non-Arab oil-producing nations. It needs the kind of government management that will direct the domestic oil industry, rather than let it call the shots as it has done. And we must successfully lobby Nixon away from Shultz's recommendation that oil import quotas be lifted in favor of the Arabs.

The nation also needs to re-develop strong ties with the rest of the Western World and Japan so that to that national oil embargo brings only the heady new economic power of the Persian Gulf nations.

But all of this takes the leadership of a respected, courageous President—which suggests that we won't cope with the major dimensions of the energy crisis until Mr. Nixon is persuaded to leave, or is pushed out of his high office.

SUPPORT FOR S. 1868

Mr. TUNNEY. Mr. President, the Senate has begun debate on one of the important pieces of foreign policy legislation this year, S. 1868. This bill will bring the United States back into conformity with its international obligations, voluntarily undertaken, to participate with the other majority of nations decided to impose an economic embargo on Rhodesia. The United States joined fully in this decision, as it should have done.

Under the United Nations Charter, only the Security Council can make resolutions binding on all member states. The United States, and the other great powers, have the veto in the Security Council precisely to have a political check against having binding results which might work against their vital interests. But the United States did not exercise its veto; quite to the contrary, it supported the economic sanctions against Rhodesia.

Therefore, under article 25 of the charter, we bound ourselves to obey this resolution. We now find ourselves in violation of our treaty obligations—and completely out of step with the rest of the world—and in step only with South Africa and Portugal. As a result, our relations with all the other African nations, and our stature in the United Nations, are deteriorating. There is no greater single irritant in our relations with African nations than our failure to enforce the U.N. sanctions against Rhodesia.

Our Nation should not reneg on its international treaty obligations, to which it has already agreed. Our Nation should not be in violation of the United Nations Charter, which is based upon the most hateful, abhorrent social practice known to the human race. Therefore, Mr. Presi-
dent, I am in full agreement with this legislation.

Now the main arguments which have been raised against this bill are economic ones. It is claimed that the present exemption from the embargo which was enacted in 1971 allows the import of needed chrome ore, and avoids making the United States dependent on the only other source, the Soviet Union. Too great reliance on one source, it is argued, will force up the price, and imperil our national security.

The facts, as I understand them, are entirely the opposite. Prices for Russian and other non-Rhodesian chrome ore will fluctuate in any event because of overall world demand. The prices of almost all raw materials have been rising in recent years; surely the Rhodesian embargo was not alone responsible. Moreover, the domestic steel industry, which uses the chrome in the manufacture of so-called specialty steels, has since 1971 been protected against foreign competition anyway by the voluntary restraint agreement made with European and Japanese steel producers.

In fact, in terms of jobs, it is alleged that the lifting of the embargo actually harmed American industry, since what has been imported since 1971 has not been very much Rhodesian chrome ore, but already-processed ferrochrome. This ferrochrome has taken up 25 percent of the domestic market already, and forced the closing of some American plants.

Indeed, as I have mentioned, the lifting of the embargo has not had anything like its intended effect on chrome ore imports. Imports from Rhodesia are now lower than they were before the embargo was begun. Rhodesia was the source of only 3 percent of our chrome ore imports in the first half of 1973, compared with 61 percent for the Soviet Union. In 1969, the figures were 22 percent and 45 percent, respectively. Clearly, we are still depending on Russia for about the same proportion of our chrome ore imports as we did during the embargo period, when Russia supplied close to 60 percent—but not higher—of our imports. The reason this is true is that there are, in fact, alternate sources to Rhodesia, primarily Turkey, which is anxious to export chrome ore. There is no reason why we should be subsidizing the economy of a racist regime when we can help financing the economy of an ally.

All these figures and facts have been set forth at other times by my colleagues, Mr. Humphrey and Mr. McGee. And they are not the only source. The United Steelworkers of America, whose jobs are directly involved, has lobbied very strongly for this bill, and I am very impressed by their position.

Lastly, the national security arguments have absolutely no weight. This is demonstrated by the figures on the relative stability of import levels from Russia. Even more importantly, for me, we have the flat assertion by the highest officials of our Government that there is no national security reason to prevent a return to the embargo. Indeed, the administration strongly supports this legislation. I can think of no better refutation of any argument that this legislation would have adverse economic or security consequences.

Therefore, Mr. President, I will vote for this bill and I will vote to cut off unlimited debate. I sincerely hope that there will be a limit on debate. This is not an issue on which there is such a lot of dispute or economic wisdom on one side that it should detain us, at this late date, in the session, when we have a great many important measures which are calling for our attention and our action.

CONFERENCE REPORT ON THE FOREIGN ASSISTANCE AUTHORIZATION BILL, S. 1443

Mr. FULBRIGHT. Mr. President, in a few days the conference report on the foreign aid authorization bill will be coming before the Senate for action, if it is approved by the House.

This report is an improvident and wasteful measure for the Senate and for the American people. It should be rejected. Never have I sat in a conference where the Senate's position fared so badly. In order to familiarize the Senate with major provisions and individual member's amendments that were either dropped or seriously weakened in the conference, I ask unanimous consent that certain material be printed in the Record.

Thre being no objection, the material was ordered to be printed in the Record, as follows:

COMPARATIVE DATA ON FISCAL YEAR 1974 FOREIGN AID AUTHORIZATION LEGISLATION

[In millions of dollars]

<table>
<thead>
<tr>
<th></th>
<th>Executive branch authorization request</th>
<th>Continuing resolution</th>
<th>House bill</th>
<th>Senate bill</th>
<th>Conference agreement</th>
<th>Difference from Senate amounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. ECONOMIC ASSISTANCE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indo-China, postwar reconstr</td>
<td>$632.0</td>
<td>$431.0</td>
<td>$632.0</td>
<td>$576.0</td>
<td>$504.0</td>
<td>+$52.0</td>
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<td>International organizations</td>
<td>124.8</td>
<td>94.1</td>
<td>127.8</td>
<td>127.82</td>
<td>127.8</td>
<td>- $0.22</td>
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<td>Indo-Burma</td>
<td>15.0</td>
<td>9.0</td>
<td>15.0</td>
<td>14.0</td>
<td>14.0</td>
<td>+ $0.0</td>
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<td>Old development loan/grant categories:</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Loans (including Alliance for Progress)</td>
<td>351.8</td>
<td>210.6</td>
<td>351.8</td>
<td>210.6</td>
<td>351.8</td>
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<tr>
<td>Grants (including Alliance for Progress)</td>
<td>114.0</td>
<td>89.8</td>
<td>114.0</td>
<td>89.8</td>
<td>114.0</td>
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<td>New development loan categories:</td>
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<tr>
<td>Food and nutrition</td>
<td></td>
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<tr>
<td>Population status and health</td>
<td></td>
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<tr>
<td>Education and human resources</td>
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<tr>
<td>Selected development problems</td>
<td></td>
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<tr>
<td>Selected countries and organizations</td>
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<tr>
<td>Miscellaneous categories:</td>
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<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>American schools and hospitals</td>
<td>10.0</td>
<td>9.0</td>
<td>10.0</td>
<td>10.0</td>
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<td>International narcotics control program</td>
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<td>22.4</td>
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<tr>
<td>Education</td>
<td>240.0</td>
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<td>235.0</td>
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<td>Partners of the Alliance</td>
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<td>45.9</td>
<td>5.5</td>
<td>45.9</td>
<td>5.5</td>
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<td>Refugee relief assistance (Bangladesh)</td>
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<td></td>
<td>3.0</td>
<td>3.0</td>
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<td>Arab refugee</td>
<td>30.0</td>
<td>25.0</td>
<td>30.0</td>
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<td>African famine relief</td>
<td>50.0</td>
<td>45.0</td>
<td>50.0</td>
<td>45.0</td>
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<tr>
<td>Albert Schweitzer Hospital</td>
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<td></td>
<td>6.0</td>
<td>6.0</td>
<td>6.0</td>
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<tr>
<td>Total economic assistance</td>
<td>1,910.6</td>
<td>1,221.0</td>
<td>1,610.88</td>
<td>1,218.22</td>
<td>1,429.734</td>
<td>+$211.532</td>
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<td>II. MILITARY ASSISTANCE</td>
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<td>Grant military assistance.</td>
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<td>433.9</td>
<td>550.0</td>
<td>420.0</td>
<td>512.5</td>
<td>-$92.5</td>
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<td>Regional naval training.</td>
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<td>224.0</td>
<td>420.0</td>
<td>224.0</td>
<td>420.0</td>
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<tr>
<td>Security supporting assistance (outside Indo-China)</td>
<td>120.0</td>
<td>120.0</td>
<td>120.0</td>
<td>120.0</td>
<td>120.0</td>
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<td>Military credit sales.</td>
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<td>256.6</td>
<td>325.0</td>
<td>256.6</td>
<td>325.0</td>
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<tr>
<td>Military training.</td>
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<td>280.0</td>
<td>280.0</td>
<td>280.0</td>
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<tr>
<td>Total military assistance</td>
<td>1,277.5</td>
<td>960.3</td>
<td>1,155.0</td>
<td>770.0</td>
<td>962.5</td>
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<td>Total economic and military assistance</td>
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<td>2,182.2</td>
<td>2,765.88</td>
<td>2,988.22</td>
<td>2,392.234</td>
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<td>Other Items</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Loan level</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drawdown authority for military aid.</td>
<td>323.0</td>
<td>251.0</td>
<td>323.0</td>
<td>251.0</td>
<td>323.0</td>
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<td>Excess defense articles</td>
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<td>380.0</td>
<td>380.0</td>
<td>380.0</td>
<td>380.0</td>
<td></td>
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<tr>
<td>Total</td>
<td>688.0</td>
<td>630.0</td>
<td>688.0</td>
<td>630.0</td>
<td>688.0</td>
<td>+$56.1</td>
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<tr>
<td>Grand total</td>
<td>3,955.5</td>
<td>2,618.2</td>
<td>3,573.86</td>
<td>2,953.22</td>
<td>2,953.734</td>
<td>+$956.512</td>
</tr>
</tbody>
</table>
ECONOMIC ASSISTANCE—S. 2335

1. The prohibition against "follow-on" aid projects was dropped.
2. The requirement that not more than one-third of the funds available for any one of the new program categories was removed.
3. The requirement that not more than 50% of the appropriations for the new categories can be used as grants was dropped.
4. The requirement that not more than 50% of the appropriations for the new categories can be used as grants was dropped.
5. The requirement that not more than 50% of the appropriations for the new categories can be used as grants was dropped.
6. The requirement that not more than 50% of the appropriations for the new categories can be used as grants was dropped.
7. The prohibition on training of foreign police forces was watered down to exempt training in the United States and all existing contracts for training abroad.
8. The Senate's authority for the use of loan repayments was delayed for two years, and in the interim, 50% of loan repayments will be available for lending.
9. The earmarking for population programs in FY 1978 was cut from $150 million to $100 million.
10. The access to information provision was weakened seriously.

VIETNAM—THE MISSING IN ACTION

Mr. ROTH. Mr. President, one of the continuing tragedies of the Vietnam war is that more than 1,200 Americans are still missing and unaccounted for in Southeast Asia. We do not know what fate they have suffered, but their families and friends cannot forget those they love and we, as a Nation, cannot forget those who served their country in the most trying circumstances and were lost.

Since the January cease-fire agreement some strenuous efforts have been made to find and account for these men. Searches of crash-sites and other information gathering activities for this humanitarian purpose on the territories under their control. In addition, North Vietnam has not accounted for men we know they had captured and whom they are obligated to return to or account for under the cease-fire agreement.

There can be no improvement in our relations with them until they have completely fulfilled their treaty obligations respecting POW's and MIA's. I cannot imagine the President of the United States, the Congress, or the people of this country seriously considering trade with, much less aid to, North Vietnam so long as our missing are still unaccounted for.

SENATE AMENDMENTS DELETED OR WEAKENED SERIOUSLY

1. Mondale—Calling for convening of an international conference for controls of conventional arms.
6. Taft—Earmarking $150 million for population programs in FY 1978 (agreed to by a voice vote).
8. Byrd of Virginia—India rupee agreement.

HOUNDING THE PRESIDENT OUT IS WRONG

Mr. FONG. Mr. President, a very distinguished former Member of the U.S. Senate, representative of Wisconsin to the Congreso Assembly of Representatives to the United States in Rome, the Honorable Al Gore Booth Luce, has written a perceptive and informed article entitled "Hounding the President Out Is Wrong," which rightly points out that our Constitution provides the only proper means for removal of a President.

Mrs. Luce reminds her fellow countrymen that—

Our Constitutional methods of relieving the country of an unpopular President (or any other elected official) are the electoral process, or, (when the gravamen of alleged crimes) the process of impeachment. Are these methods now to be forgone, in favor of one which rightly points out that our Constitution provides the only proper means for removal of a President?

Mrs. Luce reminds her fellow countrymen that—

...
guilty, he shall be removed from his high office. And it also says that if he is acquitted, he may go about his presidential business, vindi cated.

The Constitution does not say that this is to be done only when a majority of the Congress deems it to be a necessary business, it is the business of the People, not either House or the Nation.

If the President is not above the law, neither is he below it. He has the same right as every other citizen to be considered inno cent until he is haled into court and proven guilty.

Today, much of the press (Time magazine included) is trying to deny him his right by forcing him to resign. Despite his protestation of innocence, the press has tried him and found him guilty. If it is now his constitutional rights to get rid of a President without bothering with the legal formalities provided by the Constitution.

A few weeks ago, the owner of a large newspaper said, "...people will resign in a matter of weeks. No man can stand up to what we are pouring onto him and not crack up.

Is this way of getting rid of President Nixon in the best interests of the country? Let us ask, what if the fierce and relentless press were to turn its attention to the President's health and spirit? And what if he were then to resign, a broken man, but a man still alive and free?

The people would then never know the truth about his personal connection with that complex of scandals we call Watergate. A majority would certainly continue to assume his guilt, and cite his resignation as final proof of it, but they could never be ready to assume the guilt of millions of people—would continue to assume his innocence, and would see him as the victim of a vindictive and partisan press. The unresolved question of the President's real guilt or innocence would fester in the body politic.

The press, in constituting itself Mr. Nixon's judge, jury and executioner, insists, of course, that it is acting as agent for the will of the majority of the American people, as expressed in the polls. These polls, when one looks into the matter, are the result of one per cent samplings—many of them telephone samplings—which are taken by privately owned firms—principally Gallup, Harris, and Opinion Research.

As everyone knows, political polls have not been established, are all high in favor of poll-taking? The statisticians say that when a majority of the Congress deems it to be a necessary business, it is the business of the People, not either House or the Nation.

There is no question that, today, the press is sincere in its belief that the President's resigning is the best for the country. But if the press should achieve its goal by "pouring it on" in order to force his resignation, the power of the polls, a very dangerous and undemocratic precedent will have been established. For the press and politicians are yielding that power over the fate of politicians and officials which the Constitution has expressly reserved to the people at the ballot box. Until a law is passed requiring a public official to resign when a one per cent sampling of public opinion shows that he has lost a majority of the people's confidence, polls are no proper basis for demanding a political resignation. They are not even good grounds for impeachment. The grounds for impeachment are clearly set forth by the Constitution, and the process is left to the duly elected representatives of the people—their Congress.

ENERGY CONSERVATION WORKS

Mr. BEALL. Mr. President, I firmly believe that voluntary fuel conservation is the best way to meet the short-run problems posed by the energy crisis which faces our Nation today. In the full month of the Federal effort to conserve energy, region 3 saved 7 million kilowatt-hours of electricity, as compared with the same time in 1972.

I commend Federal efforts in this region, and ask unanimous consent that the article "U.S. Region Saves Power" be printed in the Record at the conclusion of my remarks.

Mr. President, it is my earnest hope that we will be reading more such articles in the near future as all of our citizens do their part to ease the demand for all forms of energy.

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

U.S. REGION SAVES POWER

(Par. Anne S. Philbin)

Federal employees in Region 3, which includes Maryland, saved 7 million kilowatt-hours of electricity in the first month of the government's conservation program. This saving is the equivalent of enough electricity to take care of more than 10,000 accidental users for 80 days, according to a spokesman for the Baltimore Gas and Electric Company.

President Nixon set a goal of a 7 percent reduction in energy demands for federal govern ment operations beginning last July 1 for the following 12 months. Since then the government buildings, of thousands of light bulbs replaced with low wattage bulbs, engen gement buildings, of thousands of light bulbs replaced with low wattage bulbs, engen gement buildings, of thousands of light bulbs replaced with low wattage bulbs, engen gement buildings, of thousands of light bulbs replaced with low wattage bulbs, engen gement buildings, of thousands of light bulbs replaced with low wattage bulbs, engen gement buildings, of thousands of light bulbs replaced with low wattage bulbs, engen
energy area. Short term energy needs will mainly be fulfilled by relying on presently developed forms of energy. Longer range energy requirements can be satisfied only through progress in the use of present energy sources, development of new energy sources, and better conservation and utilization practices.

The President is therefore proposing that the establishment of an Energy Research and Development Administration (ERDA) be considered to develop technologies for efficiently using fossil, nuclear and advanced energy sources and utilization systems. Longer range development of technologies for all foreseeable advanced energy sources and utilization systems. The agency will have responsibility for policy formulation, strategy development, planning, management of the conduct of the energy R&D programs and for working with industry to assure that promising new technologies can be developed and applied. In addition, ERDA will continue the weapons production and development programs of the AEC.

Advantages of ERDA are:

ERDA will be formed by transfer of AEC's energy R&D, R&D on the design, development, utilization systems, coal, solar and geothermal energy development, activities and portions of EPA's six thousand employees concerned with energy and alternative automotive power systems (AAPS) research programs. Exhibit A contains estimates of FY 74 program costs for these activities when used directly.

ERDA's organization will be headed by a single Administrator and a Deputy Administrator. Other management support functions. The ERDA headquarters structure is designed to represent the ERDA and for working with industry to assure that promising new technologies can be developed and applied. In addition, ERDA will continue the weapons production and development programs of the AEC.

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R&D funding and overcome the nuclear dominance concern.

This mission will be directly supported by a number of key high caliber analytic staff offices which will assist in neutralizing the energy source advocacy of the major competitors and in assessing the merits of the various technologies and balancing resources among competing areas.

Existing regulatory responsibilities of the AEC will remain behind and become the Nuclear Energy Commission, a renamed independent agency.

WHAT MAJOR PROGRAMS WILL ERDA UNDERTAKE OVER THE NEXT FIVE YEARS AND AT WHAT APPROXIMATE FUNDING LEVELS?

The President has proposed a Federal energy R&D budget of $1 billion over a five-year period. This has been increased to $1.15 billion for fiscal year 1974 and will be devoted to the acceleration of certain existing projects and the initiation of new projects. About one-half of the funding for the new projects for the period 1974-1979 is planned to be included in the FY 1975 budget.

NUCLEAR ENERGY COMMISSION

The separation of regulatory functions from the research, development and production activities of the present Atomic Energy Commission is another step in the evolution of the Federal Government's involvement in the nuclear energy. The five member AEC Commission, including its staff offices and Licensing Boards, plus the three regulatory Directorates under the Director of Regulation will form the nucleus of the renamed Nuclear Energy Commission (NEC). NEC will be an independent regulatory commission responsible for licensing the civilian use of nuclear power and materials.

BACKGROUND

Significant Federal involvement in nuclear energy development and production activities of the present Atomic Energy Commission is another step in the evolution of the Federal Government's involvement in the nuclear energy. The five member AEC Commission, including its staff offices and Licensing Boards, plus the three regulatory Directorates under the Director of Regulation will form the nucleus of the renamed Nuclear Energy Commission (NEC). NEC will be an independent regulatory commission responsible for licensing the civilian use of nuclear power and materials.

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THE PRESIDENT SHOULD NOT RESIGN

Mr. FONG. Mr. President, the contemporary columnist, Mr. William Safire, has written two essays analyzing and rebutting cries that President Nixon should resign. In his first essay, entitled “Don’t Quit,” Mr. Safire pointed out that “Quitting would solve nothing, and could cause great mayhem.”

In his second essay, entitled “The 27th Amendment,” Mr. Safire noted that:

Those who now demand that this President resign because he has “lost the ability to govern” are calling for the most fundamental change—not just in a leader, but in the traditions that make up our governmental system.

They cannot escape the consequences of their demand, which would be a kind of 27th Amendment, written or unwritten, that would say: “The President shall hold office for a term of four years, or until such time as his rating in the two leading national public opinion polls falls below 20 per cent for three consecutive months, at which time it can be assumed the President has lost the ability to govern and he must then resign.”

Nobody has actually proposed such an amendment, but why, that would be downright radical—yet that would be the inescapable result of any successful hounding-into-resignation of a President.

The enormous power of precedent that has helped keep Presidents from resigning under pressure through two centuries, thus stabilizing our system, when once broken, is not about to come apart in this less violent decade at the revelation of political abuses. That is not blood, but vitriol, now running in the streets.

On the contrary, amid the worst of Watergate, the stock market has moved a hundred points up, interest rates and unemployment have come significantly down and the dollar has strengthened around the world. Perhaps a Washington too preoccupied to launch its weekly “bold new initiatives” —which used to lead to alienation, taxation, inflation and a “peace” that might turn out to be the best thing for the country. Whether or not a Federal numbness is the paradoxical cause, economic confidence is clearly on the rise.

3. As long as Mr. Nixon remains President, the investigation of his Administration will be impeded. Of course it will. The President is the target of a grand jury and he can be expected to do what he can to defend himself. If he refuses to permit the Department of Justice to investigate in deep enough, and to go on long enough, to whip up unstoppable impeachment sentiment, would the President have let Brooks win Brown’s vote for , having run such a slapdash inquiry?

Face it: Mr. Nixon stands accused, and he will cooperate with the prosecution of himself, which under our system, is the right of the accused. To quit would be to confess guilt, as we have seen, no protestations of patriotic motive would wash; and it is wrong to demand that a man who considers himself innocent take action that is tantamount to confessing a crime.

If his accusers think the President has committed impeachable crimes, they should stick to bringing him to justice. If they are determined to make him resign, then they should appoint their own prosecutor, arm him with the powers of judicial power, and make him either resign or hold their peace.

4. Resignation would avert a horrendous confrontation. Which is to say that the way to avert a constitutional clash is for one side to say it was wrong and to skulk off. By the same token, if the President and the courts “resign” the match—just forget about the whole thing? Same result—no clash—and the same side, the President, will ensue at justice not having been done.

A miscarriage of justice, whether the result of a witch hunt or a whitewash, is never “good for the country.” In the sensible avoidance of confrontation, it is good to remember that it is not the President who is threatened with impeachment, but the economy and the world.

It is possibly to be furious with Mr. Nixon’s encroachments on liberty, astounded at the blunders of his defense, worried about the prospect of public suicide here in a shrouded with apprehension that the worst is yet to come— and still, to resolutely oppose resignations.

Quitting would solve nothing, and could cause great mischief—about that, more in the next essay.

THE 27TH AMENDMENT

(William Safire)

WASHINGTON, Nov. 7.—Because the President’s popularity has nosed in the public opinion polls, we are told, he has lost the ability to govern: On that eminently practical point, Mr. Nixon’s critics insist, the wise and patriotic course would be for Richard Nixon to resign.

That would be the “easy way,” and nothing would be more unwise or unpatriotic because it would radically alter the nature of our system of government.

In the United States, when a government becomes unpopular and loses a vote of confidence, it “falls” and a new election is held. The system, in whatever century, is immune; what it loses in stability it gains in responsiveness; but it is not the system the United States has had for two centuries.

Again, in the three essays, Safire lays some restraints on the wide swings of public opinion. For example, only one-third of the Senate, or a four-year period, having at any time, so that a popular surge at any one time cannot suddenly transform the ideological balance of the whole political body.

More to the point, our “Founding Fathers”—that phrase was coined by Warren G. Harding, of all people—rejected the parli­amentary system of the British. They said that the separation of powers, a separately powerful President for a specific term, so that a President could, if he felt the need, make unpopular decisive without being thrown out of office immediately.

Those who now demand that this President resign because he has “lost the ability to govern” are calling for the most fundamental change—not just in a leader, but in the traditions that make up our governmental system.

They cannot escape the consequences of their demand, which would be a kind of 27th Amendment, written or unwritten, that would say: “The President shall hold office for a term of four years, or until such time as his rating in the two leading national public opinion polls falls below 20 per cent for three consecutive months, at which time it can be assumed the President has lost the ability to govern and he must then resign.”

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On the contrary, amid the worst of Watergate, the stock market has moved a hundred points up, interest rates and unemployment have come significantly down and the dollar has strengthened around the world. Perhaps a Washington too preoccupied to launch its weekly “bold new initiatives”—which used to lead to alienation, taxation, inflation and a “peace” that might turn out to be the best thing for the country. Whether or not a Federal numbness is the paradoxical cause, economic confidence is clearly on the rise.

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A miscarriage of justice, whether the result of a witch hunt or a whitewash, is never “good for the country.” In the sensible avoidance of confrontation, it is good to remember that it is not the President who is threatened with impeachment, but the economy and the world.

It is possible to be furious with Mr. Nixon’s encroachments on liberty, astounded at the blunders of his defense, worried about the prospect of public suicide here in a shrouded with apprehension that the worst is yet to come—and still, to resolutely oppose resignations.

Quitting would solve nothing, and could cause great mischief—about that, more in the next essay.
already detecting from the quit-now ranks because they do not want to see him get so easily, to help them out, they hang on to the wall. And third, conservatives, no matter how angry or upset this week, will come to see this as a reasonable course, which is profoundly in opposition to conservative doctrine.

We Americans have come to the real choice that the resisters have posed, they will see that the alternative is not Nixon and controversy versus somebody else and unity—but the continuity of the present system versus its replacement by the parliamentary system. The same people who claim our present system is unworkable, worth of discarding 200 years of tradition, would—in all sincerity—find something uniquely disposable about next year’s President. And the President in the year after that.

The legal overthrow of an elected leader is a dirty work; people who demand that the President resign to avert impeachment are asking Mr. Nixon to do their dirty work for them. Is the prospect of the most extreme kind of struggle, followed by years of bitterness at what many will consider vindictive political usurpation, preferable to two years of a malfeasant Nixon Administration before the campaign of 1976 gets under way?

If Mr. Nixon’s critics turn their accusation that he cannot govern into a self-fulfilling prophecy; if they make the cry of “Resign!” a part of the American political discourse, then we may indeed find ourselves in a pickle in November 29, 1973

Mr. President, I also am pleased that the Office of Petroleum Allocation has announced allocation preferences for the marine and fisheries industry. In their order contained in the Federal Register of November 27, Administrator Eli T. Reich laid out procedures whereby commercial fishing vessels and associated seafood processing activities shall be granted preference for marine fuel.

As a state which is world-famous for its bountiful harvests of seafood products, I again commend the Office of Petroleum Allocation for this order. Only last year the Chesapeake Bay seafood industry was disastrously hit by Hurricane Agnes, se-

velerly curtailting marine operations through a combination of excessive fresh water and vast amounts of sewage and other dangerous pollutants which flowed into the Bay and its tributaries. Only now is the industry beginning to recover, and thus the heavy burdens of the energy crisis could be a fatal blow for the many thousands of Marylanders who work on or near the water.

These new regulations will hopefully assist these people to remain in their important work and all them to continue to provide this Nation with high quality seafood products.

I ask unanimous consent that Advisory Notice No. 7 dealing with marine fuels be published in the Rollcall at the conclusion of my remarks.

There being no objection, the advisory notice was ordered to be printed in the Rollcall, as follows:

[Advisory Notice No. 7]

Marine Fuels

Preferences and Exceptions

Part A: Allocation preferences—Commercial Fishing Vessels and Associated Seafood Processing Activities. The Secretary of the Interior will, in order to relieve unintended results under the Mandatory Allocation Program for Middle Distillate Fuels, have been determined pursuant to section 12 of the regulations (EFO Reg. 1, 28 FR 28680), suppliers shall give preference in the allocation to vessels in the middle distillate range for the following purposes for the period indicated:

1. For the operation of commercial fishing vessels of American ownership, registry, or operation engaged in the harvesting and transportation of marine food products to shore installations in the United States or its territories and in the operation of onboard equipment and gear; for a period of sixty days effective immediately, except as stated in 2 below.

2. For the operation of shoreside seafood processing installations in the United States or its territories for a period of sixty days effective immediately, where operations are construed to include the processing and storage of such marine products but not the distribution thereof.

3. For the operation of commercial fishing vessels of American ownership, registry, or operation engaged in the harvest of Yellowfin Tuna during the Yellowfin Tuna Season commencing on January 1, 1974, for the period indicated, which is determined by the Inter-American Tropical Tuna Commission.

Part B: Temporary Exceptions from Mandatory Program. In order to assist petroleum suppliers in providing marine fuels to the preferred classes of end users described in Part A above, for a period of sixty days effective immediately the following classes of end users are excepted from the provisions of the Mandatory Allocation Program for Middle Distillate Fuels:

Ships and any other marine craft whose primary use is or will be of a recreational or pleasure nature, including both public and private vessels, commercial yachts, cruise ships, sport fishing boats and other pleasure craft, whether owner operated or commercial.

Suppliers of marine fuels shall furnish such fuels to such end users only where such furnishing will not compromise the supply of such preferred end users described in Part A above.

Part C: General considerations. It is intended that the preference granted herein shall apply only to sales of diesel fuels in the middle distillate range during the indicated period. All applications of the other classes categories furnish a written statement certifying to their supplier that volumes requested constitute essential requirements during the period covered by the statement, and it is not intended that this notice be used as a device for stocking fuels against potential future needs.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF THE SOCIAL SECURITY ACT

The PRESIDING OFFICER. The pending question is on agreeing to the amendment—No. 724—of the Senator from Minnesota (Mr. Mondale), which, in accordance with the unanimous consent agreement, will be voted on at 12 o’clock noon.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk read as follows:

A bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment—No. 724—of the Senator from Minnesota (Mr. Mondale), which, in accordance with the unanimous consent agreement, will be voted on at 12 o’clock noon.

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

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

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on four amendments which I have at the desk.

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

Mr. HELMS. I ask for the yeas and nays on my amendments Nos. 732, 740, 741 and 742.

Mr. ROBERT C. BYRD. Mr. President, does the Senator ask unanimous consent to have one show of seconds on all four amendments?

Mr. HELMS. Yes, Mr. President.

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

The yeas and nays were ordered.

Mr. HELMS. 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. HELMS. 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. HELMS. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on four amendments which I have at the desk.

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

Mr. HELMS. I ask for the yeas and nays on my amendments Nos. 732, 740, 741, and 742.

Mr. ROBERT C. BYRD. Mr. President, does the Senator ask unanimous consent to have one show of seconds on all four amendments?

Mr. HELMS. Yes, Mr. President.

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

The yeas and nays were ordered.

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

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

Mr. COOK. Mr. President, I ask unanimous consent that I be excused from the call of the Senate.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the absentees be excused.

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order be discharged.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order be discharged.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the absentees be excused.

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order be discharged.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order be discharged.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, one of its reading clerks, announced that the House had passed the bill (S. 1559) to provide financial assistance to enable State and local governments to assume responsibility for the training of community services, and for other purposes, with all accompanying papers, is referred to the Chief Commissioner of the United States Customs. (S. 1559) shall proceed with the same in accordance with the provisions of sections 1469 and 2509 of title 28, United States Code, and report to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States, or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93-571), explaining the purposes of the measure.

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

Resolved, That the bill (S. 1970) entitled "A bill for the relief of Carl Johnstone, Jr., of 4042633 in full satisfaction of his claim against the United States for refund of overpayment of custom duties on entries of 13 airplanes imported by him during 1950, 1951, and 1952. In the year 1950, the claimant purchased a number of airplanes in England. The airplanes were shipped separately to the United States. The first seven importations were sent to Chicago, and, having arrived there, were sent to the United States through the port of Detroit. The next 11 entries were sent to San Antonio, Texas, and cleared through the port of Buffalo. All subsequent entries were ferried directly from England to New York. At this time the claimant became aware of the applicability of a lower valuation based upon the value of the airplanes in England, and action was instituted to recover duties paid on the first 18 importations which had been appraised at a Canadian value for the airplanes. Upon receipt of this letter the Assistant Commissioner of the Department of the Army, the purpose hereof shall be paid or delivered to or retained by the chief commissioner of the United States Customs. The chief commissioner of the United States Customs is equipped to determine the merits thereof, and make a report to the Senate. The claimant will be notified of the decision of the Board of Review of the Senate. The chief commissioner of the United States Customs is empowered to refund him the import duties on the 13 aircraft was due to an administrative error on its part.

The Department of the Treasury is opposed to the enactment of S. 1970. Attached hereto is a letter from the Senate Counsel of the Treasury to Chairman Eastland regarding S. 1381, 91st Congress, which was identical to S. 1970.

MARCOS ROJO RODRIGUEZ

The Senate proceeded to consider the bill (S. 724) for the relief of Marcos Rojas Rodriguez, which was referred to the Committee on the Judiciary.

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

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

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

REFERRAL OF BILL TO THE COURT OF CLAIMS

The resolution (S. Res. 125) to refer the bill (S. 1970) entitled "A bill for the relief of Carl Johnstone, Jr." to the Chief Commissioner of the United States Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, That the bill (S. 1970) entitled "A bill for the relief of Carl Johnstone, Jr.

The amendment was agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93-572), explaining the purposes of the measure.

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

PURPOSE OF AMENDMENT

In accordance with the recommendations of the Department of the Army, the purpose
November 29, 1973

CONGRESSIONAL RECORD—SENATE

page 3, line 2, after the word "of", strike out "20 per centum" and add "10 per centum"; so as to make the bill read:

3. No part of the amount appropriated in this Act in excess of 10 per centum shall be paid or made available to any agent or attorney on account of services rendered in connection with this claim, and the committee proceeding on the claim shall affix a copy of the claim file as follows:

CXXIX—2432—Part 29
The Senate proceeded to consider the bill (S. 222) for the relief of Robert J. Martin which had been reported from the Committee on the Judiciary with an amendment, on the Senate floor on January 2, 1969. The amendment was ordered to be printed in the Record prior to the commencement of operations of the Postal Service. Since the present case was finally determined adversely to the claimant by the Post Office Department Claims Division prior to such date, relief for Mr. Martin must initiate with Congress. The Committee believes that legislative relief is appropriate and recommends that the bill, as amended, be favorably considered.

ROBERT J. MARTIN

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The amendment was agreed to.

The amendment was ordered to be printed in the Record.

AMENDMENT

The amendment was ordered to be printed in the Record as follows:

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November 29, 1973

CONGRESSIONAL RECORD—SENATE

38623

pay. A retired enlisted man is not subject to the provisions of the Dual Compensation Act (5 U.S.C. 8530).

Any injuries and disabilities that he sustained in the explosion of the phosphorous grenade, Mr. Mikulenka was entitled to payments under the Federal Employees Compensation Act (5 U.S.C. 8101-8179) which were computed to be $33,207.67. While the provisions of that act provided that an employee suffering disability payments in addition to payments in the form of pension for service in the Army, Navy, or Marine Corps would be barred from receiving both his payments and his retired pay because 'retired pay' has been specifically defined in the Act as a pension 'as provided in the exception in the Federal Employees Compensation Act. Steelman v. United States, 313 F2d 162, 165 Cl. 81 (1966). As a result he was forced to make an election between compensation and the retired pay to which he was entitled as a retired Sergeant. In order to receive the disability payments to which he was entitled under the Federal Compensation Act for the injuries sustained as a civilian employee, Mr. Mikulenka chose to waive his retired pay. The amended bill would allow Mr. Mikulenka to receive both retired pay even though he had accepted the award.

"In indicating that it would have no objection to the bill, the Department of the Army construed this case to be one fact distinguishable from the general run of workmen's compensation cases. One point emphasized by the Army was that Mikulenka's injuries resulted from a deliberate effort on his part to prevent death or injury to himself and others. Despite this, the Department of Labor in 1966 pointed out that this case is distinguishable from those in which individuals seek two conflicting payments, such as receiving both veterans' and civilian compensation in the same capacity. In this connection, the committee notes that this is an obvious point since Mr. Mikulenka, earned his right to receive retirement pay because he served twenty-four years in the Army including service during World War II, and then after retirement became a Federal employee and was injured while acting in his civilian capacity. In this connection, the Army stated:

"'Faced with the extraordinary circumstances surrounding the incident and Sergeant Mikulenka's heroic conduct, the Department of Labor found favorable action is warranted on the bill, if it is amended so as to provide only for his entitlement to his military retirement pay as well as the disability payments from the Bureau of Employees' Compensation. In arriving at this conclusion, the Department considered this case in the light of past bills involving injuries arising from industrial accidents, and finds that it is readily distinguishable from the general run of workmen's compensation type cases. In most incidents, the employee is injured by his unintentional act of a fellow worker and not the result of a deliberate act taken at a great personal risk to himself to prevent death or injury to himself, and it is also distinguishable from those in which a claimant seeks two conflicting payments while in the service. 38623..."

EDGAR P. FAULKNER AND RAY H. NEW

The bill (H.R. 4848) for the relief of Edgar P. Faulkner and Ray H. New was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93-537), explaining the purpose of the measure.

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

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Postal Service, on such terms as it deems just, to compensate, pay, discharge in whole or in part the liability of Edgar P. Faulkner, as postmaster, and Ray H. New, as assistant postmaster, at the United States Post Office, for the loss resulting from the burglary at that post office on the night of June 19, 1969.

STATEMENT

The facts of this case as contained in House Report 93-432 are as follows:

The U.S. Postal Service in its report on the bill stated that it favors enactment of the bill with the amendment recommended by the Committee.

"On the night of June 19, 1969, burglars forcibly entered the Tucker Post Office, used torches to open the walk-in vault of the office, stole a safe inside the vault without visible signs of force. The main vault and savings stamps were taken from the safe with no signs of forced entry. Dollar bills, located inside the safe were opened and cash and stamps were taken from them. A burglar-resistant chest in the safe was not attacked. While the chest protected a quantity of large denomination stamps, it was not filled to capacity and could have been used to protect a portion of the stamp stock that was taken. Losses as a result of the burglary totaled $47,860.78 in stamps and funds-$31,038.47 in postage stamps, $553.94 in postal funds, and $16,270.10 in U.S. Savings Stamps.

"On June 20, 1969, the General Accounting Office (hereinafter GAO) held Postmaster Faulkner and Assistant Postmaster Ray H. New jointly and severally liable for the $18,770.00, on the point of view of the stamp stock which could have been placed in the unutilized space in the burglar-resistant chest as a safeguard against the probability that, contrary to postal regulations in effect at the time, Faulkner and New had failed to fill the burglar-resistant chests to capacity.

"The Postal Service took the position, however, that Postmaster Faulkner and Assistant Postmaster New were entitled under the circumstances, to require the claimant to make an election between his retired pay because of his injury to the other employees and attendant claims by them upon the Government."

Hazel L. Lawson and Lloyd C. Johnson

The bill (H.R. 449) for the relief of Hazel L. Lawson and Lloyd C. Johnson was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93-658), explaining the purpose of the measure.

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

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Postal Service, on such terms as it deems just, to compensate, pay, discharge in whole or in part the liability of Hazel L. Lawson, postmaster, and Lloyd C. Johnson, assistant postmaster, at the United States Post Office, post office, in the City of Modesto, CA., to the United States for the loss resulting from the burglary at that post office on July 3, 1967.

STATEMENT

The facts of this case as contained in House Report 93-433 are as follows:

"The U.S. Postal Service in its report on the bill indicated it favors enactment of the bill with the amendment recommended by the Committee.

"As is outlined in the report of the Postal Service, on the night of July 3, 1967, burglars forcibly entered the post office and opened two safes. The inner, a burglar-resistant chest which was equipped with an inner security chamber, known as a burglar-resistant chest. While it was the usual practice to store part of the stamp stock in the inner chest, no stamps were stored therein on the night of the burglary. Assistant Postmaster Lloyd C. Johnson stated that he had not placed stamp stock in the inner chest so as to leave room for an incoming shipment of stamps. His statement was corroborated by Postmaster Johnson, who indicated that Assistant Postmaster Johnson used the inner chest as a usual procedure and was careful and conscientious employee. Losses as a result of the burglary totaled $33,207.66 in stamps-3,763.20 in cash and $29,535.36 in main stamp stock. The main stamp stock represented $26,400.00 in postage stamps,
$3,119.35 in U.S. Savings Stamps, and $8.01 in Documentary Stamps.

"The General Accounting Office disallowed $26,460.00 of Assistant Postmaster Johnson's claim for recovery. GAO ruled that the Post Office did not have a legal duty to protect the burglar, and his duty was not to enter the post office prior to the burglar's entry. The claim was disallowed because it was not a just and reasonable answer to the claimant's request for assistance.

"In agreement with the views of the House, the committee recommends the bill favorably.

JOSEPH C. LEEBA

The bill (H.R. 2207) for the relief of Joseph C. Leeia was considered, ordered to a third reading, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report of the House Committee on the Post Office and Post Roads, explaining the purposes of the measure.

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

PURPOSE
The purpose of the proposed legislation is to authorize the Postmaster General to promulgate rules and regulations to provide for the safekeeping of money, securities, and other valuable items in post offices.

STATEMENT
The facts in the case contained in House Report 93-448 are as follows:

"On March 22, 1969, burglars forced entry into the West Side Post Office by cutting the window and entering through the window. The burglar then removed $2,600 in cash and stamps.

"In agreement with the views of the House, the committee recommends the bill favorably.

CORNELIUS S. BALL AND OTHERS

The bill (H.R. 2213) for the relief of Cornelius S. Ball, Victor F. Mann, Jr., George E. Derr, and James R. Walsh was considered, ordered to a third reading, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report of the House Committee on the Post Office and Post Roads, explaining the purposes of the measure.

"In agreement with the views of the House, the committee recommends the bill favorably.

JAMES EVANS ET AL.

The bill (H.R. 3044) for the relief of James Evans, publisher of the Colfax County Press, and Morris Ovaska was considered, ordered to a third reading, and passed.
Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report of the House Judiciary Committee stated in its conclusions as follows:

"It is unquestioned that the publication is legally established. However, in our equity and good conscience we do not believe we should now assert a claim against the publication for the deficiency, since the post office accepted mailings of the Colfax County Press containing the advertising supplement throughout the period from May 15, 1968, to May 5, 1971."

"We also believe that the postmaster should be granted some relief, in part, because he had no prior experience with second-class mail requirements. This is evidenced by the fact that the Colfax County Press is the only publication entered as second-class mail at Clarkson."

"In our view the most appropriate disposition of the case would be achieved by amending H.R. 3044 to relieve the publication in the amount of the deficiency ($1,342.48); and to authorize the United States Postal Service to open cases decided prior to the commencement of operations of the Postal Service on July 1, 1971, and to reopen cases decided prior to the commencement of operations of the Postal Service on July 1, 1971."

The committee agrees that this is a proper subject for legislative relief in the form recommended by the committee. Under such circumstances, the proper rate chargeable for the supplement was the single piece third class rate. The pertinent regulations provide that publications which are distinct from and independent of the regular issue, such as catalogs, circulars, handbills, posters and other special advertisements, and which are, therefore, not germane to the issue, may not be inserted as supplements to publications on such terms as it deems just, to compromise, release, or discharge in whole or in part the liability of the postmaster for the deficiency. The United States Postal Service Code, now gives the Postal Service authority to determine cases involving employee liability, but it does not provide that this new authority may not be used to reopen cases decided prior to the commencement of operations of the new Postal Service, July 1, 1971. Since this case was finally determined adversely to the claimant prior to such date, relief for former Postmaster Lyttle must initiate with Congress."

EUGENIA C. LYTTLE

The bill (H.R. 3530) for the relief of Eugenia C. Lyttle was considered, ordered to a third reading, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93-562), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to authorize the United States Postal Service to compromise, release or discharge in whole or in part the liability of Eugenia C. Lyttle, former postmaster at Manchester, Kentucky, for the loss resulting from a burglary at the Manchester Post Office on the night of May 11 and 12, 1969.

STATEMENT

The facts in the case as contained in House Report 93-436 are as follows:

The Postal Service in a report to the committee indicated it would have no objection to the bill with the amendment recommended by the committee.

The burglary at the amended bill occurred on the night of May 11, 1969 when burglars forcibly entered the Manchester Post Office and opened the post office safe by "peeling." One safe was equipped with an inner security chamber, known as a burglary-resistant chest. The burglary-resistant chest was located in the main stock and was the largest of its kind in the United States. After the burglary, the safe was opened with a key. The man who opened the safe used a key he found in a small box of stamps. The loss was determined to be $1,342.48 in stamps and some unused stamps, $10.50 in U.S. Savings Stamps.

The Postal Service report stated that on August 9, 1969, the United States Post Office Department disallowed former Postmaster Lyttle's claim for credit for the losses in main stock. GAO based its ruling on the ground that the Postmaster had utilized available protective equipment for maximum protection of postal funds and stamp stock constituted negligence. The Postal Service stated however that it feels that while it cannot condone a failure to make maximum utilization of security equipment it would not be neither just nor expedient to hold former Postmaster Lyttle liable for the full amount of $1,342.48. Ms. Lyttle felt that she had, in conformity with Post Office Department regulations, made every reasonable effort to protect postal funds and stamps, since she had properly locked both safes, and since the postal inspectors who inspected the Manchester Post Office in October 1967 had taken no exception to the manner in which she used the safes. Accordingly, we feel that her failure to properly utilize the inner chest was an error for which she was not in any way guilty of negligence.

"The Postal Service referred to the current law on relief of liability when it stated that while the Postal Reorganization Act of 1970, 39 U.S.C. § 101 et seq., on such terms as it deems just, to compromise, release, or discharge in whole or in part the liability of the postmaster for the deficiency, the Comptroller General has ruled (8-17185, April 15, 1971) that the new authority may not be used to reopen cases prior to the commencement of operations of the new Postal Service."

"In indicating it would have no objection to an amended bill the Postal Service stated:"

"In our view the most appropriate disposition of the case would be achieved by amending H.R. 3530 to authorize the Postal Service, on such terms as it deems just, to compromise, release, or discharge in whole or in part the liability of Ms. Lyttle. The Postal Service would have no objection to the enactment of H.R. 3530, if amended as stated:"

"The committee's recommendation is that the amended bill be considered favorably."

JAMES E. FRY, JR., AND MARGARET E. FRY

The bill (H.R. 3751) for the relief of James E. Fry, Jr., and Margaret E. Fry was considered, ordered to a third reading, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93-563), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to authorize the Secretary of the Army to receive, consider, settle, and pay any claim arising out of the contamination of the mail and the storage of the same in a chest, or any regulation promulgated thereunder, by James E. Fry, Jr., and Margaret E. Fry of Brighton, Colorado, who was damaged by chemicals or by chemical waste disposed of by personnel at the Rocky Mountain Arsenal in Colorado.
The bill would merely permit the Department of the Army to receive, consider, settle, and pay all claims pursuant to the procedure for the consideration of claims under section 2733 of title 10, United States Code, had it not already done so.

The Frys appealed the decision denying their claim on the grounds discussed later. Their appeal was denied by the Deputy Assistant Secretary of the Army (Financial Management) on the basis for reasons stated in the decision.

As noted earlier, there is evidence that property belonging to the Frys was damaged by chemical contamination, and that the Rocky Mountain Arsenal was the source of the contamination.

The Army Report goes into some detail in outlining the history of the Fry claim, and the statements of facts are being filed.

In the prompt slaughter of hogs, they suffered as a result of this effort to control the spread of the disease, owners are paid an indemnity in ac-
pay for subsequent periods but the period
applicable law for the period of November 1
to authorize the payment of the amount
in
I ask unanimous consent to have printed
proper subject for legislative relief
spections necessary in the suppression of hog
all that could be
the leave of the Federal diagnostician, the
program, due to a sequence of events over
stated:
the disease from his premises and paid in­
ease
relief in this instance, the Department
dition of eligib1111ty for indemnity payments
November 29, 1973
December 24, the Vermont diagnostician
of Department of Agriculture
USDA
health official
the

The purpose of the proposed legislation,
Mr. ROBERT C. BYRD. Mr. President,
"The
bill (H.R. 4448) for the relief of
William M. Starrs, was considered, or-
dered to a third reading, read the third
time, and passed.
Mr. ROBERT C. BYRD. Mr. President,
I ask unanimous consent to have printed
in the Record at the re-
port (No. 93-569), explaining the pur-
purposes of the measure.
There being no objection, the excerpt
was ordered to be printed in the Record,
as follows:
PURPOSE
The purpose of the proposed legislation is
to pay to William M. Starrs, of Savannah,
all his claims based on special separate maintenance
allowance leave erroneously granted to him
to apply while he was serving as a
civilian employee of the Department of the
Army.
STATEMENT
In a report to the House committee on the
bill, the General Accounting Office indicated
that it had no objection to a bill providing
for a payment of $1,284.10 and made no
comment concerning the balance of the claim
other than to set forth the facts and com-
ments relating to that aspect of the claim. The
Army in its report on the bill
dereferred to the views of the General Ac-
counting Office and outlined in the reports of the General
Accounting Office and the Department of the
Army.
Mr. William M. Starrs was employed by
the Army as a Recreation Specialist (drama-
ic) for one year beginning June 15, 1968,
and assigned to duty in the Special Services Office
in Saigon, Republic of Vietnam. When
his tour neard completion he was asked if
he wished to continue his employment. On
May 15, 1969, he responded to the Long
Binh Area Civilian Personnel Office, using
a form provided by that office, that he did,
"I wish to elect the Separate Maintenance
Allowance Leave and extend my tour of
duty for an additional 6 months." His
request was approved by the Staff Entertain-
ment Director in Saigon and the Special
Services Office in Danang. On April 26, 1969,
he wrote to the Saigon Area Civilian Person-
nel Office and requested leave for the "period
of 17 Jun 69 to 17 Jul 69."
On May 17, 1969, he received an advance
payment of Special Separate Maintenance
Allowance in the amount of $1,284.10 for "air
travel" to and from Saigon, and in July he
departed Saigon for Savannah. On July 5, 1969, he wrote from
Savannah to the Long Binh Civilian Per-
sonnel Office, informing them that he was
incapacitated on July 6, 1969, for surgery
and would be disabled until the end of August 1969. He
requested sick leave and included a certificate
drawn from his surgeon. A few days later, he
received a letter from the Staff Entertainment
Director informing him that he was not en-
titled to Special Separate Maintenance
Allowance leave, because he had never been
to a Separate Maintenance Allow-
ance office, and that it was a prerequisite
to entitlement to the leave. An enclosure
covered the conditions established by the
State Department of a serviceman. The
Army noted that this standard applies to all
United States employees serving overseas.
On September 3, Mr. Starrs wrote from
Savannah to the Long Binh Civilian Personnel Office because he had received no reply
to the request and stated in that letter that the personnel office
had assured him it would notify him of his eligibility for Special Separate Maintenance
Allowance leave. But facts were that he had been notified of his ineligibil-
ity, he would not have contracted for an
additional 6 months leave.

The bill (H.R. 4448) for the relief of
William M. Starrs, was considered or-

FIRST LT. JOHN P. DUNN, U.S. ARMY
The bill (H.R. 4448) for the relief of
1st Lt. John P. Dunn, Army of the United
States, retired, was considered, ordered
to a third reading, read the third
time, and passed.
Mr. ROBERT C. BYRD. Mr. President,
I ask unanimous consent to have printed
in the Record an excerpt from the report
(Number 93-565), explaining the purposes of
the measure.
The following objection, the excerpt
was ordered to be printed in the Record,
as follows:
PURPOSE
The purpose of the proposed legislation is
to provide the Department of the Army with
amount reimbursed to him under ap-
plicable law for the period of November
1954 to March 4, 1958. He was paid retired
pay for subsequent periods but the period
stated in the bill was barred by the 10-year
statute of limitations. His entitlement was
stated was established after the running of the statute
by a correct Board for the
Correction of Military Records.
STATEMENT
The facts of this case as contained in House
Report 98-100, page 2:
"The Department of the Army in its report
to the Committee stated that it is not opposed
to eliminating the statute of limitations
General did not recommend favorable con-
ideration."
"Lieutenant Dunn served on extended ac-
tivity as an enlisted man from June 3,
1915, through July 17, 1919. He was an en-
listed member of the regular Army reserve
from July 18, 1918, through June 4, 1920,
and held a commission in the Officers Reserve
Corps from August 8, 1924, through August
7, 1939. He attained age 69 on October 28,
1954. On January 10, 1957, he filed an ap-
lication for retirement benefits under the
provisions of 10 U.S.C. 1331-1337. On Feb-
uary 4, 1957, he was informed that he was
not eligible for retirement benefits because
he had completed only 19 years, 11 months
and 10 days of the 20 years of qualifying
services required for retirement. On Septem-
ber 21, 1967, Lieutenant Dunn filed an ap-
plication for retirement benefits under the
Military Records alleging that his service had been computed
incorrectly because he had completed 20
years of service for the purpose of
retirement. On October 18, 1967, it was
determined that an error had been made and
his records were credited with over 20 years
of qualifying service for re-
tirement purposes. On January 10, 1968,
he was placed on the Army of the United States
Retired List. In the grade of first lieutenant
with an effective date of November 1, 1954;
The General Accounting Office 
approved payment of retired pay to Lieutenant Dunn for
all payments due after March 6, 1958, but
invoked the 10-year statute of limitations
and disallowed all payments for retirement
pay for the period between November 1, 1954,
and March 6, 1958.
"In indicating that it is not opposed to
the bill, the Army stated:
The Department is generally opposed to
the payment of claims barred by the
statute of limitations, but in this case the
objections based upon the passage of time
are not applicable. In support of this
claim are firmly established
and well documented. Lieutenant Dunn made temporary
leave of absence leave, because he had
received an advance
payment of retired pay to Lieutenant Dunn in
January 1957, but due solely to an administrative
eHe was not retired until January 1958.
It is the opinion of the
Army that it is inequitable to invoke the
statute of limitations as a bar to the pay-
ment of any retired pay to which he would
have been entitled since November 1, 1954.
"Lieutenant Dunn's entitlement to re-
tirement pay for periods before the date of
his application is based on the decision of
the Court of Claims in the case of Seagrove
v. United States, 131 Ct. Cls. 790. That
decision held that the
reimbursement held payable under 10 U.S.C.
1331-1337 begins from the date the retiree
meets both the age and years of service
criteria to the date of application for such benefits.
sub-
ject, of course, to the statute of limitations."
"In view of the considerations outlined
in the report of the Department of the Army,
it is recommended that the bill be consid-
ered favorably."
In agreement with the views of the House
of Representatives the Committee recom-
ends favorable consideration of H.R. 4448.

WILLIAM M. STARRS
The bill (H.R. 4406) for the relief of
William M. Starrs, was considered, or-
sequel payment of $1,234.10 to be transferred to notice of eligibility. He concluded the letter with alternative proposals that leave be granted, as agreed, and that he return to full-time service, or that the six-months' extension be considered invalid and that he return only one-half of the six months' service. Mr. Starrs requested that he return on the same basis that he was entitled to return transportation under the terms of his initial employment contract.

"The Army advised the House Judiciary Committee that the Department record included a letter from the Adjutant General, Civilian Personnel Office, dated November 18, 1969, addressed to Mr. Starrs. It was in response to his September 3, 1969, letter, and stated that the granting of Special Separate Maintenance Allowance leave and payment of $1,234.10 was 'in error as you must be entitled to Separate Maintenance Allowance prior to receiving a special award. . . . It is regretted that you were not properly advised prior to taking leave.' It also stated that if Mr. Starrs wished, the Government would transfer him back to the United States and he could repay one-half of the advanced round-trip fare. Army records do not indicate why the error was not sent to him.

"In the absence of any reply and on advice from the Office of the Adjutant General, Washington, D.C., on November 22, 1969, Mr. Starrs was stationed in Saigon. On November 22, 1969, in further attempt to resolve the problem, when he arrived there, accordingly, on December 12, 1969, to the sponsor of the bill, he was informed his return was not necessary and that 'the payroll office and others . . . were terribly sorry that the mix-up had occurred, and it was the Government's fault, but that they couldn't do anything about it.' Mr. Starrs resigned on December 6, 1969, and returned to the United States by transportation furnished by the Government. Mr. Starrs was paid through August 9, 1969, after the $1,234.10 advance had been deducted.

"As originally introduced, this bill provided for payment of $4,600.11. Mr. Starrs contends he is entitled to $617.05 for one-half of the round-trip fare plus his loss of pay while on leave for the six-months' extension. This is the maximum possible amount claimed should be limited to $3,263.47. The sum is computed as follows: $2,646.42 in net pay and retirement; $44.82 for health insurance; $246.67 for retirement; and $821.84 for round-trip fare. Army records do not indicate why the maximum possible amount claimed was $617.05. In a statement filed with the House Committee, Mr. Starrs claimed the following items as the basis for his claim:

- Round-trip plane ticket $1,234.10
- Room and lodging in Saigon $98.00
- Lost wages $3,888.00
- Subtotal $6,000.11
- Less back wages paid $192.99
- Total $4,807.12

"After a review of all of the facts of the case, the House Judiciary Committee concluded that the bill should be amended to provide for a payment of $1,234.10. This is the figure included in the General Accounting Office letter, $1,234.10, plus $889.00, the amount that Mr. Starrs stated he was required to pay for room and board when he traveled to Vietnam to resolve his problems relating to this employment. The House Judiciary Committee concluded that the maximum possible amount claimed should be limited to $3,263.47. The sum is computed as follows: $2,646.42 in net pay and retirement; $44.82 for health insurance; $246.67 for retirement; and $821.84 for round-trip fare. Army records do not indicate why the maximum possible amount claimed was $617.05. In a statement filed with the House Committee, Mr. Starrs claimed the following items as the basis for his claim:

- Round-trip plane ticket $1,234.10
- Room and lodging in Saigon $98.00
- Lost wages $3,888.00
- Subtotal $6,000.11

"LUTHER V. WINSTED

The bill (H.R. 9276) for the consideration of Luther V. Winstead was referred, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93-570), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Postal Service, on such terms as it deems just, to compromise, release, and discharge in part, or in whole, the joint and several liabilities of Luther V. Winstead, postmaster at the Clinton, Md., Post Office for a deficiency in the amount of $17,406.82, as follows:

The purpose of the proposed legislation, as amended, is to provide that 23 named employees of the National Aeronautics and Space Administration are not to be deemed to have been transported to Seattle in 1967 and 1968 on board National Oceanic and Atmospheric Administration vessels at Government expense in connection with a change of permanent duty station, so as to qualify these employees for travel expenses in accordance with the provisions of the bill.

Clarence A. Alcorn ET AL.

The Senate proceeded to consider the bill (H.R. 1316) for the relief of Clarence A. Alcorn and 21 others which had been reported from the Committee on the Judiciary with amendments on page 2, in line 14, of the record prior to Saturday's adjournment. Mr. Byrd, Mr. President, strike out "transportation on board the vessels at the recompensation." On page 3, beginning at the end of line 1, strike out "subsection (a) of this section" and insert in lieu thereof "this Act."

The amendments were agreed to. The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.
mileage expenses of the employees in moving their household from Norfolk to Seattle to be included in computing the total transportation and moving expenses to which they are entitled. In effect, the bill will make possible the reimbursement of employees in accordance with the administrative memorandum originally issued to them prior to their move.

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

Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask unanimous consent that Rod Solomon be given the privileges of the floor during debate and consideration of this measure.

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

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

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

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

Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I ask unanimous consent that I may modify my amendment.

Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I ask unanimous consent that I may modify my amendment.

Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I ask unanimous consent that I may modify my amendment.

Without objection, it is so ordered.

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

Without objection, it is so ordered.

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

Without objection, it is so ordered.

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

The PRESIDING OFFICER, Mr. President, I ask unanimous consent for 2 additional minutes.

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

Mr. LONG. Mr. President, I ask unanimous consent for 2 additional minutes.

The Chair will now respond to the Filby amendment, as ordered, and I think rightly so, that regardless of your opinion concerning day care centers, if we are in fact going to fund such centers through a Federal program, we are not going to compromise our standards. The opponents of this Federal aid, the low income children, to see that the Federal aid is distributed in a safe, healthy, and proper manner. Trust is a key factor. If the standards do not of themselves commendable, and I urge my colleagues to again approve its adoption.

Mr. ROTH. Mr. President, I called Dr. Milkos T. Lazar, director of Social Services Division, Health and Social Services Department, State of Delaware, for his comments on the proposed amendment. Dr. Lazar advised me as follows:

The State of Delaware favors retention of the existing Federal requirements as to the States' ability to insure adequate care and set minimum standards. In addition to the existing Federal requirements, the Delaware Legislature has provided for higher standards of care in day care centers. These standards provide for additional protective measures for young children in centers such as Delaware. In Delaware, the members of the Executive Committee of the Delaware Day Care Association have developed and promulgated after consultation with all groups having expertise in the area of day care. Hence, they reflect what the experts feel children need in order to receive proper care. The amendment is offering a fair compromise.

The Senator's amendment, as modified, would rely upon State law in several situations. In the health area, it would provide for the approval of standards directed toward assuring the safety and well-being of our children. It seems to me that in view of the fact that there is a strong degree of support for the amendment, this is a good compromise. It would simply maintain the 1968 Federal standards, with some adaptations. The Federal Interagency Day Care Requirements provide for similar criteria and base line from which we can further develop our own Day Care Program. The removal of such requirements would give the individual states wider latitude to shape their day care programs and would, therefore, open the stage for a weakening of the Nation's Day Care Program.

In order to realistically accommodate the needs and capabilities of Day Care providers, revisions may be needed in the area of staffing requirements. Provided to assess the competencies of the day care staff, a slight reduction of the number of adult-child ratios would be desirable. The cost of Day Care significantly, without jeopardizing the quality of care. In addition, a payment ceiling, adjusted according to geographic areas, should be developed to ensure quality care at a reasonable cost.

In conjunction with a revision of Day Care standards, specific groups that currently do not exist, should be made available to the states so that they can effectively enforce these standards.

Mr. President, I intend to vote for the amendment.

Mr. DOMENICI. Mr. President, I would like to urge my colleagues' support for amendment No. 724 to H.R. 3153 which would simply maintain the minimal standards to assure that federally assisted day care programs do not harm children. These standards have been in effect for 8 years.

As I understand it, the committee bill, without this amendment would drop entirely all standards for day care centers. No protections would be required for young children served by these programs.

Mr. President, I have listened to the debate among my colleagues and I have also read and been aware of many serious instances of deplorable child care conditions in some States due to the laxer proper standards. In my own State of New Mexico, centers are already complying with the 1968 Federal interagency day care requirements. I do not want my colleagues to turn away from these sensible requirements.

It seems only reasonable and honorable to assure adequate care and facilities to all our Nation's children entrusted to the parents who need these day care centers to insure that when they entrust their children to the care of a facility with Federal funds, they will have the certain minimum standards of care. As the proponents of the amendment have repeatedly pointed out, the standards to which we are now addressing ourselves were promulgated after consultation with all groups having expertise in the area of day care. Hence, they reflect what the experts feel children need in order to receive proper care.

The Senator's amendment, as modified, would rely upon State law in several situations. In the health area, it would provide for the approval of standards directed toward assuring the safety and well-being of our children. It seems to me that in view of the fact that there is a strong degree of support for the amendment, this is a good compromise. It would simply maintain the 1968 Federal standards, with some adaptations. The Federal Interagency Day Care Requirements provide for similar criteria and base line from which we can further develop our own Day Care Program. The removal of such requirements would give the individual states wider latitude to shape their day care programs and would, therefore, open the stage for a weakening of the Nation's Day Care Program.

In order to realistically accommodate the needs and capabilities of Day Care providers, revisions may be needed in the area of staffing requirements. Provided to assess the competencies of the day care staff, a slight reduction of the number of adult-child ratios would be desirable. The cost of Day Care significantly, without jeopardizing the quality of care. In addition, a payment ceiling, adjusted according to geographic areas, should be developed to ensure quality care at a reasonable cost.

In conjunction with a revision of Day Care standards, specific groups that currently do not exist, should be made available to the states so that they can effectively enforce these standards.

Mr. President, I intend to vote for the amendment.
The PRESIDING OFFICER. Is there objection?
Mr. CURTIS. Mr. President, reserving the right to object, is this a printed amendment?
Mr. MONDALE. This is not a printed amendment. I understood the Senator from Nebraska was a cosponsor. It is an amendment which I understand is accepted, and that we have had the appeals procedure for nursing homes and hospitals.
Mr. CURTIS. I have no objection.
The PRESIDING OFFICER. Without objection, the amendment offered by Mr. Mondale for himself, Mr. Talmadge, Mr. DoLE, and Mr. Gurney, is as follows:

JUDICIAL REVIEW OF DECISIONS OF PROVIDER REIMBURSEMENT REVIEW BOARD

Sec. 193. (a) Section 1878(f) of the Social Security Act is amended to read as follows:

"(f) (1) A decision of the Board shall be final unless the Secretary, on his own motion or on the motion of a provider of services, modified by the Secretary is received. Such claim shall be brought in the district court of the United States for the judicial district in which the provider resides or in the District Court for the District of Columbia and shall be tried pursuant to the applicable provisions under chapter 5 of title 5, United States Code, notwithstanding any other provisions in section 205.

(2) Where a provider seeks judicial review pursuant to paragraph (1), the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning at the expiration of the 60-day period as determined pursuant to subsection (a) (3) and equal to the rate of return of equity capital established by regulation pursuant to section 1861 (v) (1) (B) and in effect at the time the civil action commenced, to be awarded by the reviewing court in favor of the prevailing party.

(3) No interest awarded pursuant to paragraph (2) shall be deemed income for the purposes of determining reimbursement due providers under this Act."

(b) Notwithstanding any other provision of law, section 1878 of the Social Security Act shall not be construed as affecting any right to judicial review which may otherwise be available under law to providers of services with respect to cost reports for accounting periods ending prior to June 30, 1973.

Mr. FONG. Mr. President, will the Senator yield?
Mr. MONDALE. I yield.
Mr. FONG. Mr. President, I ask unanimous consent that Mr. Scott, of the staff, be allowed the privileges of the floor.

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

Mr. MONDALE. Mr. President, this is an amendment which I would have raised in the committee—Mr. President, may I have order?

The PRESIDING OFFICER. The Senate will come to order. The Senator will suspend until the Chamber has come to order. Will those Senators who are conversing in the Chamber please remove themselves from the Chamber?

The Senator will resume.

Mr. MONDALE. Mr. President, this is an amendment that I would have raised in the committee. We have worked these out with the staff of the Finance Committee. I understand the amendment is now acceptable to the floor manager. As I understand it, the Department of HEW no longer objects.

It is designed to deal with what I think was an error in the social security amendments passed a few years ago.

The purpose of my amendment to H.R. 3153 is to make certain modifications in section 1878 of the Social Security Act in order to clarify the rights of providers to obtain administrative and judicial review of disputed reimbursement issues under Medicare.

Last year's social security amendments to Public Law 92–903, established in section 1878 a provision for a Provider Reimbursement Review Board to hear appeals involving disputed reimbursement amounts. Under that provision, if providers of services were granted judicial review only in the limited instance wherein the Secretary of HEW on his own motion, reverses, or modifies the decision of the Board, or of any reversal, affirmation, or modification by the Secretary is received. Such action shall be brought in the district court of the United States for the judicial district in which the provider resides, or in the District Court for the District of Columbia and shall be tried pursuant to the applicable provisions under chapter 5 of title 5, United States Code, notwithstanding any other provisions in section 205.

What I am offering would correct this inequity by offering to providers the right of judicial review of any Board decision or subsequent modification or reversal by the Secretary.

The amendment would alter in any way the administrative appeals procedures currently provided for in section 1878 of the act. Although the scope of judicial review in the program would be broadened by my amendment, I do not anticipate that this would result in any significant increase in litigation. Section 1878 contains adequate safeguards against frivolous civil actions and protects the operational integrity of the program.

This amendment provides appeals for nursing homes and hospitals when they feel they have been aggrieved by certain decisions. This amendment is offered to correct that inequity and I think would be in the interest of justice. I understand the amendment will be taken by the committee.

Mr. NELSON. Mr. President, the amendment has been examined by the staff and is acceptable to the minority and majority sides. I think it serves as an appropriate way of providing an appeal procedure. So, acting in behalf of the manager of the bill, I will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.
I call up my amendment No. 728 and ask that it be stated by the clerk.

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

Mr. FANNIN. Mr. President, will the Senator from New Jersey be recognized. I ask unanimous consent that George Pritts be agreed to.

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

Mr. CHURCH. Mr. President, I strongly support the social security improvements in H.R. 3153.

Second, the monthly income standards for the new supplemental security income program would be raised in January 1974 from $190 to $210 for single persons and from $380 to $420 for couples. A further increase would be provided in July 1974 to $240 for single persons and $420 for couples. The income standards would also be pro rata for persons living alone or in small households.

Fourth, the monthly income standards would be increased by $20 for each individual in the household who is 65 or older.

The evidence is all too clear, in my judgment, that inflationary pressures will continue to escalate throughout the Nation. Older Americans cannot wait any longer. Time is not on their side. For many, enactment of this two-step 11 percent social security increase is literally a life or death matter—especially those who are now rummaging through garbage cans for their next meal.

Mr. WILLIAMS. Mr. President, I have an amendment on the desk which I ask to be stated.

Mr. CHURCH. Mr. President, I strongly support the social security improvements in H.R. 3153.

The evidence is all too clear, in my judgment, that inflationary pressures will continue to escalate throughout the Nation. Older Americans cannot wait any longer. Time is not on their side. For many, enactment of this two-step 11 percent social security increase is literally a life or death matter—especially those who are now rummaging through garbage cans for their next meal.
At the end of part A of title I of the bill, insert the following section:

**TITLE I—AMENDMENTS TO TITLE I OF THE SOCIAL SECURITY ACT TO ELIMINATE THE PRECONDITION FOR FEDERAL FINANCIAL PARTICIPATION THAT CHILDREN FROM THEIR HOMES AS A RESULT OF JUDICIAL DETERMINATION**

Sec. 401. (a) Paragraph (1) of section 408(a) of the Social Security Act is amended by deleting the "".;" at the end thereof and inserting in lieu thereof "or any other procedure authorized under State law and approved by the Secretary."

(b) Paragraph (3) of such section is amended by deleting the "";" immediately preceding "and" and inserting in lieu thereof of "or any other procedure authorized under State law and approved by the Secretary."

Mr. JAVITS. The purpose of the amendment is to deal with a procedural question in the law relating to children in foster care. One of the provisions of existing law relates to a requirement for a court order before the child placed in foster care can qualify for support. Apparently it is agreed that they have worked out less formal procedures than court proceedings or court orders. Therefore, in order to accommodate that kind of a procedure—and I understand that the Department has no objection—this amendment provides that other procedures authorized under State law and approved by the Secretary would be just as satisfactory as the court procedure.

**FOSTER CARE AMENDMENT**

The amendment would modify section 408(a) of the Social Security Act which now requires that court order for a State to obtain Federal financial participation in the care of children in foster homes, placement must have been the result of a court order.

It has been the experience of social service officials in New York City that such a requirement for a judicial determination is not only unwarranted but in many cases the procedures through which it would be beneficial to the child, because of a family's reluctance to participate in court proceedings.

Mr. WILLIAMS. Mr. President, this amendment would simply add the State of New Jersey to a list of 31 States which are allowed to divide a public retirement coverage group and extend such coverage to those employees who elected to obtain coverage and exclude those who voted against coverage.

Mr. President, I appreciate the fact that the manager of the bill sees merit in including New Jersey in the group of States that can be covered in this way. It represents a major amendment for the public employees in New Jersey.

Mr. NELSON. Mr. President, this is an amendment which is perfectly acceptable. It has been cleared on the minority side and with the staff. Therefore, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the Williams amendment (putting the question).

The amendment was agreed to.

Mr. JAVITS. Mr. President, I call up amendment No. 725 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment:

The assistant legislative clerk read as follows:

On page 171, line 17, add the following new title:

**TITLE IV—TO AMEND TITLE IV OF THE SOCIAL SECURITY ACT TO ELIMINATE THE PRECONDITION FOR FEDERAL FINANCIAL PARTICIPATION THAT CHILDREN FROM THEIR HOMES AS A RESULT OF JUDICIAL DETERMINATION**

Sec. 401. (a) Paragraph (1) of section 408(a) of the Social Security Act is amended by deleting the "".;" at the end thereof and inserting in lieu thereof "or any other procedure authorized under State law and approved by the Secretary."

(b) Paragraph (3) of such section is amended by deleting the "";" immediately preceding "and" and inserting in lieu thereof of "or any other procedure authorized under State law and approved by the Secretary."

Mr. JAVITS. The purpose of the amendment is to deal with a procedural question in the law relating to children in foster care. One of the provisions of existing law relates to a requirement for a court order before the child placed in foster care can qualify for support. Apparently it is agreed that they have worked out less formal procedures than court proceedings or court orders. Therefore, in order to accommodate that kind of a procedure—and I understand that the Department has no objection—this amendment provides that other procedures authorized under State law and approved by the Secretary would be just as satisfactory as the court procedure.

The amendment would modify section 408(a) of the Social Security Act which now requires that court order for a State to obtain Federal financial participation in the care of children in foster homes, placement must have been the result of a court order.

It has been the experience of social service officials in New York City that such a requirement for a judicial determination is not only unwarranted but in many cases the procedures through which it would be beneficial to the child, because of a family's reluctance to participate in court proceedings.

Mr. JAVITS. Mr. President, will the Senator yield for a question or two?

Mr. JAVITS. Certainly.

Mr. CURTIS. To what extent will this change present procedures?

Mr. JAVITS. The present law requires—and it is very narrow in its statement—a court order.

I will read to the Senate the exact provisions of the current law as a result of a court order.

I wrote the chairman of the committee and the ranking minority member of the committee a letter on November 13.

I ask unanimous consent that this letter be printed at this point in the Record.

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

**HON. RUSSELL B. LONG, Chairman, Senate Finance Committee, Washington, D.C.**

DEAR MR. CHAIRMAN: I am writing to you with regard to a proposed amendment to H.R. 3153, which I understand will be reported out of Committee this week. It is my understanding that Jule M. Sugarman, Administrator of the New York City Human Resources Administration has been in touch with you concerning this amendment.

Under existing law, in order for a State to obtain Federal financial participation in the cost of maintaining children in foster care, such children must have been as the result of a court order, and other procedures authorized under State law and approved by the Secretary.

The amendment I propose to offer would amend Section 408(a) of the Social Security Act by authorizing Federal reimbursement for foster care undertaken under court order or by any other procedures authorized under State law and approved by the Secretary of Health, Education and Welfare.

Mr. Sugarman's office advises me that you have been promised a copy of this amendment on the floor and I will proceed under that assurance unless I hear from you from this desk which I expect to do. I will seek to have a copy of this amendment brought to the floor and I expect to have a copy brought to the floor.

Thank you for your understanding and cooperation on this matter which is of great interest to the City of New York.

With best regards,

JACOB K. JAVITS.

Mr. JAVITS. Mr. President, I state in the letter as follows:

Under existing law, in order for a State to obtain Federal financial participation in the cost of maintaining children in foster care, such children must have been placed in foster care as a result of a judicial determination that continuation in their own home would be contrary to the welfare of the child. The experience of the City of New York has been that this requirement of a court order is not only burdensome but indeed often hinders placements which would otherwise be justified because of the parents reluctance to go through court proceedings.

Therefore, in spite of the loss of federal reimbursement for foster care, the City loses not only the Federal contribution but the State contribution as well thereby making such voluntary placements impossible for all practical purposes.

The amendment I proposed to offer would amend Section 408(a) of the Social Security Act by authorizing Federal reimbursement for foster care undertaken under court order or by any other procedures authorized under State law and approved by the Secretary of Health, Education and Welfare.

Mr. Sugarman's office advises me that you have been promised a copy of this amendment on the floor and I will proceed under that assurance unless I hear from you from this desk which I expect to do. I will seek to have a copy of this amendment brought to the floor and I expect to have a copy brought to the floor.

Thank you for your understanding and cooperation on this matter which is of great interest to the City of New York.

With best regards,

JACOB K. JAVITS.
ties. There may be a number of children, maybe older children. That often happens. To bring such a person before a court and have court proceedings would be so traumatic that our authorities with her consent and with that of the father and after a determination by the court, we cannot take the risk that placement is necessary for the child's welfare, would place that child in a foster home with foster parents without a court proceeding which would be so traumatic for the mother. That would be highly desirable in those cases. And under the procedure in my amendment, that would have to be approved by the Secretary of HEW.

I really think that the approval of the Secretary of HEW for the approval of a court. And the Federal law now does not permit that. It says that it should be strictly a court order, which is very narrow under those circumstances.

Mr. CURTIS. The persons who would have to meet the income and property tests are the foster parents and not the natural parents?

Mr. JAVITTS. No. As I understand it everyone has to meet whatever test the law provides. My amendment does not in any way obviate that. It obviates only the procedure of a court. It provides that instead of having a court proceeding, it allows any such other procedure as is satisfactory to the Secretary, as distinguished Senator from New York City where there are currently more than 28,000 children in foster care.

Mr. CURTIS. Does the Senate have an estimate of the additional Federal costs?

Mr. JAVITTS. There should be none whatever unless one considers the approval of the Senate to be an additional cost. Indeed there would be considerable savings in terms of paper work and court costs in a jurisdiction like New York City where there are currently more than 28,000 children in foster care.

Mr. CURTIS. Would it enlarge a number of benefits?

Mr. JAVITTS. It must not in any way, except if we do not do this, we would have deprived some highly deserving children of this benefit in cases in which because of the condition of the family, or because of the court, it pre­vents them to court. However, it should not in any way affect substantively the situation.

Mr. CURTIS. Mr. President, I have no further questions.

Mr. NELSON. Mr. President, I have consulted with the staff and I have listened to the discussion. On behalf of the manager of the bill, I am perfectly willing to accommodate the distinguished Senator from New York.

The PRESIDING OFFICER. The question is on agreeing to the Javits amendment putting the question.

The amendment was agreed to.

Mr. JAVITTS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NELSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, am I recognized under the previous unanimous consent order?

The PRESIDING OFFICER. The Senator is correct. The Senator from West Virginia has an amendment pending at this point.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Indiana is now to call up an amendment, he might do so at this time. I have an amendment pending.

Mr. President, it is my understanding that the distinguished Senator from Indiana has allowed a determination that will be accepted and that it would therefore not take much time.

I ask unanimous consent, therefore, that my pending amendment be temporarily laid aside to allow the Senator from Indiana to call up his amendment which I understand will be agreed to.

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

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

The PRESIDING OFFICER. The clerk will report the amendment. The assistant legislative clerk read as follows:

Strike out all of subsection "e" of section 102 of title I beginning on page 20, line 12 to page 21, line 1.

Mr. HARTKE. Mr. President, I move to delete in its entirety subsection (e) of section 102. This subsection would, for the purpose of veterans' pensions, disregard any social security increase which veteran here has received. Mr. President, as much as I have been long concerned about the adequacy of veterans' pensions and, further, that veterans should not be unfairly penalized by virtue of any social security increase they receive I have reluctantly concluded that this provision is the wrong provision at the wrong time.

To briefly review the circumstances surrounding the provision in question, it should be remembered that the amount of pension for which a veteran or a survivor is entitled is determined by the Veterans' Administration on the basis of the veteran's countable pensionable compensation. Thus, an increase in social security—90 percent of which is counted as income—has often meant a decrease in a veteran's pension. In recent years, the decrease in pensions has sometimes been greater than the social security increase producing a net loss to a veteran or a widow. Thanks to increasing refinements in the technique of computing pensions. As my colleagues are aware, we recently passed a $239 million bill providing for increases in veterans' pensions which now is on the President's desk awaiting signature. While the bill is not all that the Senate had wanted, it does add itself to the problems of inflation and the decreases occasioned by social security which veterans experienced this year. As Mr. President, it is my understanding that both the Senate and House are committed to the process of overall pension review for comprehensive legislation which will be reported from the Veterans' Committee in 1974.

I do not want to emphasize first that whether there is any provision in this bill affecting veterans or not, no veteran's pension will be affected by this social security increase next year. The earliest then, that a veteran's pension could be affected by any social security increases enacted by Congress this year will be over a year from now in 1975. In this connection, I would, of course, be fixed according to the law that require that the social security increases expected in 1974 be counted?"
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(b) (4) is also applicable to reductions of such compensation. Therefore, the views expressed above with respect to pension apply equally to dependency and indemnity compensation.

It follows that your question, as set forth in the first paragraph, must be answered in the negative.

JOHN J. CORCORAN.

Mr. HARTKE. Second, this provision as presently written would not do what it is intended to do; that is, treat all veterans in a fair and equitable manner. By so doing the Social Security Act would discriminate against veterans who receive increases in civil service annuities, railroad retirement, or private annuities. Thus, you would have the situation where two veterans with identical outside income would receive different pensions. I can assure my colleagues that they have not seen mail that can be generated until you have a situation in which veterans with identical income are paid different pensions.

Third, I am informed that the provision as drawn now would be impossible to administer by the Veterans Administration. The Veterans Administration has termed this provision an "administrative nightmare" as the following memorandum indicates:

EXTRACT FROM SOCIAL SECURITY "PASS THROUGH" TURNS A SIMPLE SYSTEM INTO A HIGHLY COMPLEX ONE

Pension is paid based upon countable income, self-reporting through annual income questionnaires, and therefore kept simple. Pensioners receive income from various sources which are not includible in income from one source. When income from any one or combination of sources undergoes change, an adjustment in rates is made. For social security and other retirement incomes, ten percent is excluded in determining the pension rate payable. The "pass thru" proposal would create an administrative monster.

For those on the pension rolls who are receiving social security, the social security portion of their income would be of three components: the "pass thru" amount which is not includible in income, part of which is 10% which is not counted, and 90% which is counted.

But, social security will be adjusted each year in line with changes in the cost of living. The percentage will be applied to the total social security payable. Where there is a pass thru amount not to be counted, that amount, and the % increase would be excluded. The individual is not usually certain of the amount of his benefit increase (with medically, etc. deductions) nor can we be sure of the amount which will be the total increase "pass thru" adjustments will not be feasible for all of these cases, for individual treatment and adjudication would mean incurring tremendous administrative costs.

The problem would also be compounded where we do not have a clear understanding of the administrative cost.

There would be further problems should a pensioner be taken off the rolls for a period of time due to death of spouse or other change in income, and then again become eligible. Another complex income determination would have to be made which would not allow time to distinguish between those receiving pension before 1/1/74 and receiving social security and those evidencing status.

It might add that the veteran's organization have said this is not the best way to approach the problem and I ask unanimous consent that copies of letters from the American Legion addressed to my distinguished colleague, Senator Ribicoff, which explain the difficulties of this provision be inserted in the Record at this point.

There being no objection the letters were ordered printed as follows:

JOHN J. CORCORAN.


HON. ABRAHAM RIBICOFF, U.S. Senate, Washington, D.C.

Dear Senator Ribicoff: The American Legion is grateful to you again this year for your efforts to improve the veterans non-service-connected pension program. With your cooperation, H.R. 9474 passed the Senate today and the VA beneficiaries will receive a minimum 10% increase in their monthly benefits commencing next January.

The merit of excluding monthly social security benefits from counting as income for VA pension purposes has been studied by The American Legion on several occasions. Each time the organization has concluded that it does discriminate against other veterans whose retirement type incomes are derived from other sources, and for the further reason might defeat the needs test for pension eligibility.

As you know, the pension program, as established by the Income Maintenance and not a retirement program. It was designed to help relieve or prevent need arising from non-service-connected disability with associated unemployment. It also provides assistance to the spouse where the veteran's death removed the principal means of support. It is the Nation's means of assuring war veterans of an honorable form of financial assistance when they lack sufficient resources to meet the cost of their reasonable needs.

Under present law, all payments of any kind or from any source (including salary, retirement, annuity payments or similar income) are included in income for pension purposes. Additionally, the law excludes from these income determinations pension payments to a veteran or widow or child under public or private retirement, annuity, endowment, or similar plans.

From the foregoing, it is patent that the income of these beneficiaries receive equal consideration in annual income determinations. The American Legion believes that an equitable and just solution to the needs of pensioners lies not in the exclusion of income types, but by providing for adequate income limits, and monthly pension payable.

We are aware that both the Senate and House Committees on Veterans' Affairs are committed to restudy all aspects of the veterans pension program next year. They hope to find a just solution to the existing inequities which will not have to reconsider this type of legislation each time social security benefits and other retirement income are increased to keep pace with the rise in the cost of living. It is our understanding that as a result of the projected pension increases and the projected increased income, the Veterans Administration has agreed that any increases in social security benefits presently under consideration by the Congress will not be made before November 1, 1974.

Again, thank you for your splendid support and cooperation.

Sincerely yours,

HAROLD E. STRINGER,
Director, National Legislative Commission.

Mr. HARTKE. Finally, I want to assure my colleagues that the Veterans' Affairs Committees of both the Senate and House will be the whole problem of veterans' pensions next year and that we fully expect to have a thorough, comprehensive, and equitable bill for all of our veterans long before any social security increase could possibly affect their veteran pension.

Mr. President, as much as I appreciate and sympathize with the motives of the veterans' disregard provision of this bill that my colleagues not to treat the problem on a piecemeal basis—and one that will not work. Let the Veterans' Affairs Committee deal with the whole problem.

I commend the Senator from Connecticut (Mr. Ribicoff) for his intention to assure that veterans should not be penalized. I agree with the spirit of the motion of my colleagues not to treat the problem in this bill. Unfortunately, as I have indicated it does not accomplish the intended result.

I have discussed this matter with the Finance Committee, and I understand that they are willing to accept the amendment which I offer today.

Mr. NELSON. Mr. President, it was the intention of the Finance Committee, as the Senator from Indiana, who is Chairman of the Veterans' Affairs Committee, has said. With the assurance of the Veterans' Affairs Committee that would be appropriately handled by the committee, we are willing to accept the amendment.

Mr. HARTKE. Let me say to the floor members of the Finance Committee that the veterans organizations recognize this is not the proper approach. As the letter from The American Legion addressed to Senator Ribicoff indicates, they have requested that this provision be added by the committee.

Mr. NELSON. On behalf of the manager of the bill, I am willing to accept the amendment.

Mr. CURTIS. Mr. President, will the Senator state again where he would begin striking out, beginning on what page?

Mr. HARTKE. It would strike the en-
time subsection "e" of section 103 of title I which would disregard this social security increase in determining income for purposes of the pension to which a veteran or his survivor would be entitled.

Mr. CURTIS. On what page?

Mr. HARTKE. Page 7 of the Senate Record, page 12.

Mr. HARTKE. Lines 7 to 12.

Mr. CURTIS. Lines 7 to 12?

Mr. HARTKE. Yes. Beginning with line 18 on page 21, line 2. That entire subsection.

Mr. CURTIS. Will the Senator state again what this language would do if it were left in here?

Mr. HARTKE. Subsection E would purport for the purposes of determining the amount of a veteran's pension to be paid to disregard any social security increase passed this year. I believe, with respect to social security increases that have adversely affected veterans' pensions that there has already passed Congress a measure which is on the President's desk, which has no substantial objection, which would correct those deficiencies.

Quite simply we have taken care of past problems with that bill and we have another one already on the Veterans' Administration to deal with this matter in depth. The Veterans' Administration is opposed to the provision which my amendment would delete. The veteran organizations are opposed to it, and the Veterans' Affairs Committee is opposed to it.

Mr. HARTKE. They are opposed to its being handled in the social security legislation: Is that what the Senator means?

Mr. HARTKE. No. In this particular case I would be perfectly willing to waive jurisdiction if this presents an equitable and workable provision of real benefit to the veterans. But it is not. The railroad employees, for example, and certain pensioners of the Government who are taking care of terminally ill people would not be aided by this provision. In other words, the legislative process does not accomplish the spirit which it was intended to accomplish.

Mr. CURTIS. Can the Senator propose to do is strike it out entirely?

Mr. HARTKE. That is right.

Mr. CURTIS. I thank the Senator.

Mr. THURMOND. Mr. President, initially, I want to preface my remarks with a statement concerning social welfare legislation in general, and non-service-connected veterans pension legislation in particular.

First, I believe that every able-bodied man should work or train for work, and the emphasis of our legislative activity should encourage that end. While the great majority of the American people are physically and mentally capable of holding a job, there are many, who, because of infirmities of the mind or body, are not able to hold a job or even train for work. But the veteran has hard or what they try or what their desires may be.

Those in the latter group, Mr. President, deserve our best efforts to help them maintain a standard of living above the poverty level, and the full benefits of all the governmental programs which have been designed to aid them in their battle to maintain a decent standard of living for themselves and their families.

Second, many of our veterans who draw non-service-connected pensions fall in the group that I have just described. Many of them have sustained disabilities and/or disability, quality for both social security benefits and a veterans pension. The combination of these benefits affords the non-service-connected pensioner a more dignified life and enables him to live in the manner befitting one who was willing to sacrifice his life and body for his country.

Mr. President, no government program is wasted when it is aimed at compensating the American veteran for the service he has rendered our country. After all, we are free to stand here today in free and open debate because of his service when our Nation needed him most.

No veteran should ever be penalized because of his status as a veteran. The President's program, which I have described, would accure to him if he were not a veteran should, and must, continue to be available to him as a veteran.

Obviously, it is this very point which poses the most difficult problem in social security laws with the veterans' pension laws. Since veterans' pensions are based on need, and increase in social security payments often lifts the veteran's income above the pension level, which qualifies him for a non-service-connected pension. A raise in social security benefits helps the normal recipient meet increased living costs, but an anomalous situation may arise if many veterans or their widows. They are told to expect an increase in social security benefits, but a decrease in their pension because their income has increased to a point of lifting them into another increment level for pension purposes. Some even have their income level raised to a point where no pension at all is available.

Mr. President, the problem has plagued us for many years, and I have given considerable thought to a lasting solution. Unfortunately, I must admit, and I believe that other members of the Senate think the same way the Finance Committee will agree, we have been unable to devise a workable solution for this complex problem.

In the last session of Congress, I sponsored a bill with the chairman of the Veterans' Affairs Committee, Senator Hartke, which contained a provision for a $400 increase in the income limitations in computing countable income for non-service-connected pension purposes. A $400 increase would have offset recent social security increases. This bill passed the Senate unanimously on October 11, 1972, but the House did not act on it be­ cause the Senate had already enacted legislation. Introducing this bill as S. 275 in the present Congress, and again it passed the Senate unanimously on August 2, 1973.

However, the House again refused to act on this provision. In discussions with the leadership of the House committee, it became evident that the House would not accept an increase in income limitations for computing the non-service-connected pensions.

First, it was pointed out that such an approach offered only a temporary solution. Each time a social security increase occurred, a subsequent increase in income limitations would be necessary to protect the status of the non-service-connected pensioner.

Second, each increase in income limitations would qualify additional veterans for the pension rolls, and we would be aiding the man who needed the assistance most and not the one who needed the help the most.

Third, the addition of more and more veterans to the pension rolls would set into motion an unending process which would strike the provision for an increase in income limitations. Basically the veterans non-service-connected pension legislation of 1973 provided authority for a temporary cost of living adjustment, or temporary relief. However, at the time of passage, the colloquy on the Senate floor between Senators Hartke, Hansen, and myself pointed out that the present provision would expire early in the next session. It is my expectation that a full-fledged examination of the veterans pension system will be a primary effort to the Veterans' Affairs Committee early next year.

While at first glance it may seem logical to adopt the Finance Committee's proposal to disregard social security increases in computing the veteran's non-service-connected pension purposes, this approach fails to recognize the problems of the veteran and his family. The non-service-connected pension affords these problems and deletes the
"pass-through" or "disregard" provisions in the bill. After careful study and consultation, I am convinced that his amendment represents the best interest of the veteran.

Mr. President, I believe that all veterans legislation must be directed toward the betterment of the veteran, and I am hopeful that logic, and not emotion, will control our thoughts as we consider the Hartke amendment.

My duty, as the senior Republican on the Senate Finance Committee, is to protect the best interests of the American veteran. With that thought in mind, I urge my colleagues to support the Hartke amendment, but with the full realization that the Veterans' Affairs Committee, as well as the full Senate, is charged with the duty of examining the veterans pension system and seeking to propose sound and equitable solutions to this perplexing problem which faces the non-service-connected veteran.

While we all realize the need for changes in the veterans' pension law, I am convinced that the primary responsibility of this chamber, charged with the duty of examining the veterans pension system and seeking to propose sound and equitable solutions to this perplexing problem which faces the non-service-connected veteran.

The Finance Committee's proposal for a "disregard" is admirable in motive and intention, but I believe that a better solution can and will be worked out by wait­ing thoroughly on this problem. Senator Hartke long ago committed himself to seeking a solution, and I joined him, Senator Stennis, the ranking minority member, and other members in a bipartisan effort to find an answer. The committee will continue its efforts.

Therefore, Mr. President, I support the Hartke amendment and urge my colleagues to do likewise.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana. The amendment was agreed to. Mr. BOYD. Mr. President, my amendment will amend the Social Security Act by reducing from 60 to 55, the age at which a woman may become entitled to actuarially reduced widow's insurance benefits herself.

Throughout my entire congressional career, I have consistently supported and introduced legislation designed to provide more realistic social security benefits, and legislation designed to improve and strengthen the structure, administration, and financing of the social security system.

Last fall, I introduced this measure as an amendment to H.R. 1, and it was adopted by the Senate. Unfortunately, the House conferees would not accept this amendment and it, therefore, was not included in the conference-reported bill. I have also introduced this proposal as a separate bill, S. 2679 on November 9, 1973. While there were many improvements and liberalizations contained in H.R. 1, as finally enacted, I also hope that the need for additional improvements, such as would be effectuated by my amendment, will now be more clearly recognized by Members in both Houses of Congress so that this proposal might receive expeditious consideration and enactment in this law.

Beyond the 28 million citizens who are already drawing social security benefits, there are many widows between the ages of 55 and 60 who, at this stage in their lives, are unable to establish a new career, or to reactivate an old one. It is this group of widows that my amendment is aimed at assisting.

Under the provision of my amendment which, I understand, the House conferees will not accept, all widows whose husband was covered may receive actuarially reduced widow's insurance benefits to be received at age 55, the Social Security Administration has estimated that approximately $10,000 widows may claim benefits which will approximate an initial cost of about $600 million. But in the long run, there would be no, or very little, increased cost because it would balance its books.

In West Virginia, approximately 5,300 widows would become eligible for actuarily reduced benefits if the age requirement were lowered from 60 to 55. The increase in benefits for West Virginians would be approximately $10 million.

I would like to cite several examples, which have been computed by the actuarial experts of the Social Security Administration. They would illustrate what this amendment would affect widows. These examples include the 7 percent increase in Social Security.

First. Widow A is 55 years old and her husband died six months ago. Her reduced benefits would be $215.40 per month.

Second. Widow B is 55 years old and her husband had average monthly earnings of $400 per month. Her reduced benefits would be $175.40 per month.

Third. Widow C is 55 years old and her husband had average monthly earnings of $600 per month. Her reduced benefits would be $201.50 per month.

This amendment, if adopted and enacted, will provide benefits for a group of persons who need it most—widows who are unable to work and who desperately need these benefits because they have been unable to obtain them because of the social security age requirement. In the majority of cases, these widows' husbands paid into the program for a long time, and these are people who deserve to receive some type of benefits now.

Mr. CURTIS. Mr. President, will the distinguished Senator from West Virginia yield for a question or two?
Mr. CURTIS. Is it the Senator's contention that there would not be any additional cost?

Mr. ROBERT C. BYRD. It is my contention that over the long run, the initial cost would be made up by balancing the initial cost of any actuarially balanced plan.

Mr. CURTIS. I am aware that, theoretically, that contention is made, but if it were literally true, everyone could then retire at 40 years of age at reduced benefits, and it would cost the system nothing.

Mr. ROBERT C. BYRD. The law does not allow everyone to retire at 40.

Mr. CURTIS. No, no; but if it does not cost anything to give the reduced benefits at a lower age and the Congress chose to do it, why not? Why not give it in favor of a system of 40 years of age to do it, it would not cost them, if the Senator's theory is correct.

Mr. ROBERT C. BYRD. Actuarially it is supposed to balance out. I am not advocating an actuarially balanced plan.

Mr. CURTIS. Does this amendment have the support of the Department?

Mr. ROBERT C. BYRD. I cannot say that it has the support of the Department.

Mr. CURTIS. Does the Senator know whether they are objecting to it?

Mr. ROBERT C. BYRD. I do not know for a fact that they are objecting to it. I cannot say that.

Mr. CURTIS. I thank the Senator from West Virginia very much for his courtesy in answering these questions. I feel that amendments of this kind, materially lowering the retirement age, should not be adopted by consent or by a vote of the Senate, but that the Senate should vote on them. I am afraid we do not have sufficient Senators in this Chamber at this moment to hold a rollcall to second a request for a rollcall vote, but I think we should have one.

Mr. CURTIS. I agree with the Senator. What I stated that I cannot say as a matter of fact that the Social Security Administration does not approve this amendment, I can only assume that it does oppose it, because I believe the administration has opposed similar amendments in the past. How strong that opposition is, I have no way of knowing. But I agree there should be a rollcall vote on this. As an amendment, it is not a part of the Senate, I should like to lay this amendment temporarily aside and take up a second amendment, after which I will have no additional amendments.

Mr. HARTKE. Mr. President, will the Senator from West Virginia yield for a question or two on this amendment?

Mr. ROBERT C. BYRD. I would have to object, but I hope that---

Mr. CURTIS. I would like to argue about that, but if we can pass a law by unanimous consent, why on earth can we not have a rollcall vote by unanimous consent?

Mr. ROBERT C. BYRD. I am willing to discuss that with the Senator. I will not argue with him on it. This business of securing one-fifth of the Members present to order a rollcall vote is a constitutional inhibition and not mine, but---

Mr. CURTIS. Would the Senator yield if I might make a---

Mr. ROBERT C. BYRD. Yes.

Mr. CURTIS. For a quorum call.

Mr. ROBERT C. BYRD. Would the Senator allow us to proceed? We will get a sufficient number of hands. If the Senator from West Virginia proceeds to call the roll, I will concur with a little discussion with the Senator from Indiana, I believe, in the long run, that will save time.

Mr. CURTIS. Does the Senate have another amendment?

Mr. ROBERT C. BYRD. I was going to ask unanimous consent that I could set this amendment temporarily aside until we have a sufficient number of Senators in Chamber to get the yeas and nays.

Mr. CURTIS. These ladies may be 60 years old by the time that happens.

[Laughter.]

Mr. ROBERT C. BYRD. I am sure they will receive good encouragement from the Senator's vote on this amendment.

Mr. CURTIS. That is right.

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

The yeas and nays were ordered.

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

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

Mr. ROBERT C. BYRD. Mr. President, I have called off the quorum, with the understanding of the distinguished Senator from Illinois (Mr. Percy) that we will proceed with the rights of the distinguished Senator from Nebraska (Mr. Curtis) while he is talking on the telephone; but I think that in the long run this will save time and it will give the right to the Senator from West Virginia (Mr. Harriman) an opportunity to make his statement.

I yield to the Senator from Indiana.

Mr. HARTKE. I thank the Senator from West Virginia. I wanted to ask the Senator, is this amendment an attempt to provide an opportunity for widows to go ahead and retire at an earlier age than they have previously been able to retire, in view of the fact that they were forced to work beyond the period of time, and that many of them are not sick but are disabled, that is, in the terminology of the social security laws and who are, frankly beyond their physical capabilities to continue to act and work?

Mr. ROBERT C. BYRD. The Senator is correct. An amendment only goes to the problem of widows. It is the option to retire at an earlier age than they presently can retire, with the understanding that they will receive actuarially reduced benefits if they do so choose to retire at an earlier age.

Mr. HARTKE. All right. In the discussion with the Senator from Nebraska (Mr. Curtis), which dealt with the question, will it permit anyone to retire on reduced benefits when, theoretically, that might be true but the fact is, if one retired at 40, he would not get anything because, actuarially, it would not work out. But the problem for the individual retiring at 55 would find that his reduced benefits would be substantially less than he would get if he continued to work. If he can. But under such circumstances, where the necessities would indicate that they should or could retire, this amendment provides an opportunity for that. It is really an optional amendment and not a mandatory amendment; is that not correct?

Mr. ROBERT C. BYRD. The able Senator from Indiana has stated the case precisely. Mr. Curtis, as an amendment.

Mr. President, now that the Senator from Nebraska has returned to the Chamber, may I say to him that I called off the quorum with the understanding of the distinguished Senator from Illinois (Mr. Percy) that the rights of the Senator from Nebraska (Mr. Curtis) would be fully protected and that we can carry on this colloquy in the meantime.

Mr. CURTIS. Mr. President, I am seeking recognition in my own right now.

The PRESIDING OFFICER. Mr. Byrd, the Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President; this amendment sounds like it would not cost anything. I do not think that is correct. I also point out that it would be inequitable to enact. Are we to say to some women who have had to work hard all their lives that they cannot elect to retire at a reduced benefit at age 55 but that widows can? Some people who are beneficiaries of social security need that benefit very badly to live on. A larger number need it. But not all beneficiaries of the social security system need that. This amendment makes no such qualification. A widow has an optional retirement at 55, but working women have no such option.

This is a reason for permitting some reduction in age for an optional retirement, because when people get to a certain age, it is difficult for them to carry on. These other women who have an option at 60. No evidence has been presented that the same facts prevail in reference to a widow at age 55.
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Mr. ROBERT C. BYRD. Mr. President, I think the Senator's argument has a great deal of merit. By unanimous consent, I would like to modify my amendment to allow men and women to retire with actuarially reduced benefits at age 60, rather than 62, as at present, retaining the language in the amendment I have offered, which would allow widows to retire at age 55.

Mr. CURTIS, Mr. President, a parla-

ment. The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. The yeas and nays have been ordered. Can such modification be made?

The PRESIDING OFFICER. Only by unanimous consent.

Mr. CURTIS. I am constrained to object, not because I would throw a difficulty into the procedure; but I do not believe that these moves should be made without being considered by a committee and the committee bringing in a recommendation. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I can, of course, offer an amendment to your own amendment, for the benefit of widows, to lower the age for widows to retire until age 55.

Mr. CURTIS. Mr. President, a parla-

ment. The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. In the past, on a number of occasions, the Senate has adopted an amendment I have offered reducing the age from 62 to 60, with actuarially reduced benefits, for both men and women.

I am torn between two emotions, as to whether or not to proceed accordingly to try to amend my own amendment, which I have a right to do. I realize that if I do, the Senator may wish to talk for a while on that amendment. I do not know what his inclination would be.

I also realize that my amendment reducing the age from 62 to 60 has been offered by me at least four, five, or six times in the Senate, over a period of several years, and it has never gotten through the conference with the other body.

Lastly, I would like to amend to lower the age for widows to 50, and at the suggestion of the distinguished senior Senator from Kentucky at that time, Mr. Cooper, I agreed to modify my amendment to make it age 55, rather than 50. So I would assume that my amendment might have a better chance of surviving in conference if I stayed with the amendment I have offered today, rather than attempting to expand it at this point to include other groups. Half a loaf would be better than no loaf at all.

I say again that I think the Senator's suggestion has a great deal of merit, that other women should also have some option. But I will not attempt to amend my amendment on this occasion. I will let the amendment stand, and I hope that the Senate will agree to the amendment.

May I ask the Senator if he would allow me to do this? I have one other amendment that I would like to ask unanimous consent, and I will ask unanimous consent, and the Senator may object if he wishes, that the pending amendment be temporarily laid aside and that I proceed with the second amendment, discuss it, request the yeas and nays on it, have the yeas and nays ordered, and then have the two votes occur back to back.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object to it, and I do not know that I will object, in the interest of orderly procedure I would like to be informed what the second amendment is about.

Mr. ROBERT C. BYRD. Yes, I think the Senator is entitled to know that.

I do not know how Lyndon Johnson, when he was majority leader, used to be able to carry so many papers around in all of his pockets and in both of his arms and be able to avoid losing them.

Apparently I am not doing too well at it myself.

Mr. President, this is not a printed amendment. I shall state to the Senators what it would do.

Mr. President, this amendment would amend the social security law by allowing Social Security recipients to earn up to $3,000 a year without being penalized. The Senator is familiar with the subject matter.

If the Senator has no objection, I could offer it and then discuss it. If he would prefer to wait for a vote until after the prior amendment, that is all right with me.

Mr. CURTIS. I would have no objection to such a procedure, I think it might even be true that it would be helpful to Members of the Senate—at this point I am not willing to agree to a general limitation of time, but if the Senator wishes to suggest a time for the votes, that is all right with me, too.

Mr. ROBERT C. BYRD. Mr. President, could I get the Senator's consent to proceed with the vote on the pending amendment and immediately thereafter I then be recognized to call up this second amendment?

Mr. CURTIS. Yes, either that or dis-

cuss the second one.

Mr. ROBERT C. BYRD. Discuss it now, and then go to a vote on both amendments?

Mr. CURTIS. I have no objection.

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

Mr. ROBERT C. BYRD. Mr. Presi-

tent, I send the amendment to the desk and ask that the Clerk state it.

The PRESIDING OFFICER. Without objection, the pending amendment will be temporarily laid aside.

The clerk will state the second amendment.

The legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. Presi-

tent, I ask unanimous consent that fur-

ther amendments of the amendment be dis-

pensed 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 part A of title I of the bill, insert the following new section:

LIBERALIZATION OF EARNING TEST

Sec. 111A. (a) Paragraphs (1), (2), and (4) (B) of section 203(f), and paragraph (1) (A) of section 202 of the Social Security Act are each amended by striking out “$175” and inserting in lieu thereof “$250”.

(b) The amendments made by subsection (a) shall be in effect with respect to taxable years beginning after December 31, 1973.

(c) Section 202 of Public Law 89-66 is hereby repealed.

Mr. ROBERT C. BYRD. Mr. President, my amendment would amend the social security law by allowing social security beneficiaries to earn up to $3,000 per year without being penalized by loss of benefits. Under existing social security law, beneficiaries are allowed to earn up to $2,100 per year before being penalized with loss of earnings, and on January 1, 1974, this limitation will be increased to $2,400.

Presently, if a beneficiary earns over $2,100, he is penalized $1 for every $2 that he earns and he loses benefits in this amount—a grossly unfair procedure which penalizes against those who can least afford it.

This limitation penalizes the wrong persons. Commonsense would indicate that, Citizens who have been working all their lives contributing to the system during this working period from their hard earned salaries should not, at this point in their lives, be penalized for working.

Mr. President, at the present time the maximum social security benefits are $266 per month for a man who reached age 65 in 1973 and had maximum earnings through 1972, and many people need additional funds, above that amount, to sustain themselves. Surely, they should not be penalized for having the incentive to go out to earn the extra money they need.

Under present law, beneficiaries who reach age 72 receive their full benefits without regard to any earnings limitation. I do not understand why they should be penalized between the ages of 70 and 72.

Another glaring inequity in the earnings test application is that in determining whether the earnings limitation has been exceeded, only “wages” and “net earnings from self employment” are considered—whether or not such wages or earnings are derived from employment covered by the Social Security Act. Income which is neither wages nor net earnings from self-employment is not counted. Thus, persons who are wealthy or have private investments, and who receive income from interests, dividends, rents from real estate or any amount of income from pensions or annuities may do so without having any reductions in OASDI benefits.

Mr. President, when this retirement test was put into law, in 1935, there might have been valid reasons for discouraging older workers from working past age 65 to increase job opportunities for younger workers. However, today’s high economy does not need such restrictions of workers. By keeping these older persons from working, we are in effect, depriving this country of valuable skills and productivity.

Also, the Federal Government has been encouraging earnings in the past 5 years to prohibit and to discourage the discrimination against workers because of age, and to encourage the hiring and retention of older workers.

The age limit test discriminates against those individuals who can afford it least—those who must work to supplement their benefits. When we consider that the average social security benefit which is received at this time is approximately $2,000 per year, it is obvious that many individuals have to work. This provision causes a great deal of hardship in cases where the individual has need for more income than social security benefits can provide. That is why I propose to increase this limitation to $3,000 per year.

Mr. President, these people should not be penalized; rather they should be commended for the desire to go out and continue to work for themselves and contribute to the economic well-being of their communities and the Nation itself.

Mr. President, I think that about sums it up.

Mr. FANNIN. Mr. President, the Senator has a very meritorious amendment. Similar amendments have been considered over the years and in recent months have been discussed in the committee. But the consideration involved has been the barrier.

As I understand the amount involved would be in the neighborhood of $600 million.

Mr. ROBERT C. BYRD. About $800 million, I am told.

Mr. FANNIN. $800 million?

Mr. ROBERT C. BYRD. Yes.

Mr. FANNIN. That is the limiting factor, whether or not we can take a jump of that magnitude, with the budget that is now certainly above what was anticipated, and creating the further problem that if we do not know exactly what it is to be, the problem could be greater.

I ask the Senator if he has any method of financing this additional amount that would be involved?

Mr. ROBERT C. BYRD. I do not provide for the financing of the additional cost in this amendment.

Mr. FANNIN. But the cost would be in the neighborhood of $800 million?

Mr. ROBERT C. BYRD. That is correct.

Mr. CURTIS. Mr. President, would the distinguished Senator advise us what the cost of the proposal would be, the yearly cost?

Mr. ROBERT C. BYRD. About $800 million, I am advised.

Mr. CASDICS. That would be recurring every year?

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

Mr. CURTIS. Does the Senator provide any financing?

Mr. ROBERT C. BYRD. I do not in this amendment.
did not only constitute a problem for the parents; it was also an additional burden on those young people 20 and 30 years of age who were trying to rear families and for whom the burden of taking care of a parent was a burden which was just economically unbearable. The social security program relieved the young people of that burden. 

So there are two or three things to be said when we start talking about people in this country who are 30 or 40 years of age. The social security program has also benefited them because it has aided in the care of their parents who otherwise would be a burden on them.

I recognize that the Senator raises a valid point about the additional cost of this amendment and no provision for financing that cost, but Senators have done this before on the floor. It is a valid point to be raised, but this has been done before. Many Senators who are not on the Finance Committee who have offered amendments increasing the cost have not included in their amendments means for financing the cost.

Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield. 

Mr. AIKEN. Suppose the beneficiary would pay a tax of $3,000 and earn $3,000 more. How much of that would be subject to income tax?

Mr. ROBERT C. BYRD. Would the Senator restate the question?

Mr. AIKEN. Suppose the beneficiary’s income from Federal payments is $3,000 and he earns $3,000 more, as proposed by the Senator from West Virginia. How much of that would be liable to income tax?

Mr. ROBERT C. BYRD. I am advised that it would be very, very little.

Mr. AIKEN. It would be very little. I am sure.

Mr. ROBERT C. BYRD. Yes.

Mr. AIKEN. But suppose he is 70 years old and he gets $3,000 in Federal payments and he is a retired doctor or dentist and he earns $8,000 more, making a total income of $11,000. He would be subject to income tax on what part of that?

Mr. ROBERT C. BYRD. I am advised he would be subject to none on the $3,000 in social security benefits and the first $3,000 of earnings would not be subject to tax.

Mr. AIKEN. But if he earned-- 

Mr. ROBERT C. BYRD. An additional $5,000?

Mr. AIKEN. Say $9,000; that would make $12,000 in all. He would pay an income tax on how much of that?

Mr. ROBERT C. BYRD. I am advised that in the hypothetical case, he would pay it on about $6,000.

Mr. AIKEN. He would pay how much?

Mr. ROBERT C. BYRD. He would pay a tax of $1,800, a tax of $600.

Mr. AIKEN. Not more than $600. So $6,000 would be deductible. I am assuming he would be single.

Mr. ROBERT C. BYRD. To some degree. Not a considerable degree. I am not prepared to be precise.

Mr. AIKEN. I am not, either. If I were, I would not ask the question.

Mr. CURTIS. Social security benefits are not taxable.

Mr. ROBERT C. BYRD. The social security benefit itself, as the distinguished Senator from West Virginia has pointed out, is not taxable; but after he has used his personal exemptions and standard deductions, there would then begin to be an income tax for him, as for anyone else.

Mr. AIKEN. I think that answers it as closely as we can get it.

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

Mr. President, would the Senator like to go to a vote now?

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

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. I would like to rise in support of the amendment offered by the Senator from West Virginia. It is similar in substance to an amendment I introduced in behalf of myself, and Senators DOMINICK, COOK, EASTLAND, PASTORE, and YOUNG.

Mr. President, I ask unanimous consent that the amendment be made a part of the amendment to his amendment.

Mr. AIKEN. I am advised that I am not, either.

Mr. TOWER. I would like to make a few remarks which I think address themselves primarily to my amendment, but which I think are applicable to the amendment of Senator Wright. Every dollar he earns. Further liberalization not to be made as an amendment. I move to strike out after line 6 in the amendment I now offer a similar in substance to proposals the Senate has approved in the past.

Furthermore, reducing the age of applicability of the amendments from 72 to 70 is not a new approach since up until 1954 the cutoff date was 75.

Mr. President, let me remind the Senate that I am not calling for the elimination of the test. If it were the practical thing to do, from both a fiscal and political standpoint, I might so move. The amendment is instead the most feasible approach available to obtain some equity for our senior citizens. We all realize that inflation hurts those the most that are living on fixed income; because millions of senior citizens live primarily on social security benefits many of them supplement their payments with part-time work, ranging from a few hours of work a week to 30 to 40 hours. This type of activity should not be discouraged.

Mr. President, at this time I ask unanimous consent to have inserted in the Record an editorial from the June 18 edition of the Dallas Times Herald endorsing this proposal.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

**ATTACK ON AN INJUICE**

Not for the first time, we rise to the support of an effort to let Social Security recipients earn more money without forfeiting any of their benefits. The current ceiling on outside earnings--draws without penalty is $2,100. Sen. John Tower thinks it ought to be $3,000 and has offered a bill to that effect. Under the Tower bill, moreover, the recipient would escape altogether from that ceiling at age 70, instead of the present 72.

To us, the earnings test seems one of the reducto ad absurdum of Social Security. The principle behind the thing is awry. If a man contributes for all his working life to Social Security, then is entitled to Social Security benefits. Period.

It is for actuarial reasons, since the powers that be have seen fit to make Social Security compulsory. If we have no more choice about.
Mr. TOWER. There is no such provision. As a matter of fact, I think this has been covered in colloquy with the Senator from Nebraska.

Mr. CURTIS. Of course, of course, the bid has gone up since then. At that time we were talking about a proposal for $800 million. We have now added $150 million to that and other $600 million. That totals to $2.1 billion, and my amendment would add about $150 million.

Mr. CURTIS. But the Senator has two amendments. He wants a vote on them back to back. They will cost $1.5 billion with no provision to recover a dime for the social security fund.

I am not quarreling with any Senator for his feeling that the work test ought to go to $3,000. I am not quarreling with any Senator who feels that the age of 72 as being the time they can earn all they want should go to age 70. However, I am not happy in this bill because if the committee could do it, it could call in actuaries and experts and find out the cost. We could protect the social security fund.

It used to be that the fund had a sizable amount of money in it, enough to last for several years. Then under the premise followed by the Finance Committee, we determined that we could have at least a year. We may come to the time when the social security taxes coming in will drop down. If that happens, more people will take retirement and the outgo will increase. We have already dipped below the 1-year reserve. We are down to 70 percent of a year. And here on the Senate floor we have two amendments calling for an expenditure of more than $1.5 billion with no provision to recover the money for the fund.

There might be a very good reason for changing the age from 70 to 72 as being the age when people could earn all they wanted. However, because I am interested in the soundness and the stability of the system, I think it ought to be done in committee and not on the floor of the Senate.

There is another question that I think should be answered. It is already written into the law that the work test goes up automatically. It is now $2,400. By 1976, it will be $3,600. By 1977, it will be $3,800.

I wonder if the authors of the amendment are really realizing this built-in increase of earnings or if they are proposing that we start at $3,000 and that in the years ahead the escalator clause built in the law should take effect. If that is the case, I think that we ought to know what the figures are for the escalation and the cost of it.

Mr. President, I am not being fooled. I have no hope of winning the rollcall votes. However, if I were not concerned about the financial stability of our social security fund, I would not raise these points.

I think the time has come when we should return to the principle that if we increase social security benefits, we should increase the tax.

I do not think that any other course is possible. There is no other course for the U.S. Senate to follow.

Mr. President, there is a lot to be said about social security financing. The Finance Committee itself has not done anything about this situation. No one has spoken about the fact that so many have been financed by taxing a part of the people only. There was a time when if we increased social security benefits, we then raised the rate. The rate was raised and also the wage base. They both carried part of the load.

That was not a political thing to do. If we refrain from raising the rate and raise the base from $10,000 to $12,000 or from $12,000 to $14,000, then the politicians could go home and say to everybody who makes less than $10,000: "We have raised your social security under a mechanism with the rate increase in your social security taxes."

I do not believe that all of these added costs should be raised by increasing the tax rate. However, I do say that part of it should be.

If we believe in our social security system, if we believe that increases in benefits are sound and justified, let us have the courage to say so and to say that we will increase the tax rate so much.

Mr. President, I want the record clear. I voice no criticism of anyone who feels that benefits should be raised, that rates should be lowered, and that those higher rates should be allowed to earn more. I do say that should not be done on the floor of the Senate—not to protect the pride of position of the Finance Committee, but merely so that the cost would be offset, so that we could add up all of the proposals for increases, see what they do to our system, and then try to work out a method of financing.

Mr. President, I have no hopes of winning on this rollcall. I yield the floor.

Mr. TOWER. Mr. President, I recognize the cost of this amendment and, as one who is not a sponsor of this amendment, I am concerned with the increasing burden which the social security system is having on lower- and middle-income people, that there is a definite need for the Congress to act with a sense of restraint on the pending measure. Nevertheless, this is the type of argument that is more appropriately raised against some of the other amendments to the bill, such as the amendment we approved yesterday on prescription drugs. While that amendment and others we will consider have merit, they are measures to expand an already threatened actuarial system.

I offer not as a vulnerable to such attack. This is so because the liberalization of retirement test is not really an action to expand the system as such; the retirement test is nothing more than a penalty clause. There is a penalty for staying in the work force—penalizing Americans who already have a vested interest in retirement benefits. This cannot be said in the case of expanding eligibility in either the cash benefits area or Medicare.
Mr. President, I have talked with a number of elderly people in my State. I will not say this is true for the majority of them, but such small wonder to the elderly people feel that increasing the allowable income under the retirement test is actually more important to them than an increase in social security benefits. They believe they will look favorably on the amendment offered by the Senator from West Virginia, as amended, and will adopt it.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. TOWER. I yield to the Senator from Illinois.

Mr. PERCY. I would like to address this question either to the distinguished Senator from West Virginia, the author of the amendment, or the distinguished Senator from Texas:

Even though the cost of this amendment has been outlined as some $800 million, plus $150 million because of lowering the age of applicability as suggested by the Senator from Texas, is it not true that if people are living below the poverty line they are eligible for public assistance, and that these costs come out of the same pocket—the taxpayer's—in the long run? And is it not true, then, that it would be much more dignified for people who have worked all their lives, or who are widows or spouses, of men who worked all their lives, to have assistance in the form of an increase in the earnings limitation under social security, rather than to be forced to go the degrading route—which many of them refuse to do—of the welfare check?

Mr. TOWER. The Senator from Illinois is certainly correct. And as an added note to that, the gerontologists tell us that elderly people who are engaged in work are more likely to maintain good health. In the past, the earnings limitation has not forced the elderly people to work—worked all their lives, or who are widows or spouses, of men who worked all their lives, to have assistance in the form of an increase in the earnings limitation under social security, rather than to be forced to go the degrading route—which many of them refuse to do—of the welfare check?

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tax exemption that is provided in the Internal Revenue Code; if we were to do that, then every time when their retirement checks are increased above social security receipts would be taxable and therefore would go to the Federal Treasury.

In other words, such a system would impose no additional burden on those living wholly on social security, but it would accelerate the tradeoff between the expenses to the social security system caused by eliminating restrictions on earnings and the monies flowing into the Treasury.

Does any Senator differ on the point? Mr. HELMS, Mr. President?

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I think the most interesting aspect of this discussion this afternoon has been that everyone agrees with everyone else. Certainly, the Senator from Nebraska (Mr. Curtis) is eminently correct in his warning that the social security system can be easily bankrupted.

On the other hand, the Senator from West Virginia (Mr. Robert C. Byrd) is right on target with his proposal, and the Senator from Texas (Mr. Tower) is right on target with his proposal. I think that both the amendment of the distinguished Senator from West Virginia as amended by the distinguished Senator from Texas and the amendment offered by the distinguished Senator from West Virginia as amended by the Senator from Texas. The amendment would raise to $3,000 the amount of additional earnings which can be gained by social security recipients before he receives any reduction in his social security benefits. The amendment would also lower from 72 to 70 the age above which the income limitation has no impact.

I have joined as a sponsor of this amendment and feel that fairness dictates that the amendment be approved. It is unreasonable for the Social Security System to continue to penalize our older citizens merely because they wish to continue employment and maintain their skills acquired through years of work. Social security payments are not gratuities made available by the Federal Government. They are simply a repayment of our own earnings which we have voluntarily contributed to the Social Security Trust Fund. They are payments we have contributed along with our employers.

The earnings ceiling logically makes no sense because the funds are our contribution in the first place. But even more shocking is the fact that the beneficiary most often penalized by the income limitations that individual who has the greatest need for money income beyond his social security benefits. The idea was to force out older people from working. Social security payments are not granted to lower the age from 72 to 70.

Social security payments are not granted to lower the age from 72 to 70 for recipients of social security to begin receiving benefits. Since I would be personally affected by the outcome of the vote. For a long time I have favored allowing recipients of social security to earn up to $3,000 a year without having the social security benefits affected. No impediment should be allowed that will discourage people from working.

Mr. DOMENICI. Mr. President, I rise again today in support of Amendment No. 639, a separate bill that I had earlier cosponsored before it was offered as an amendment to H.R. 3153. This amendment would raise the ceiling on outside earnings to $3,000 before deducting social security benefits. The Social Security Administration has said that it would also lower from 72 to 70 the age at which no deductions are made for outside earnings.

As the law now stands, social security benefits available to the age of 72 have their benefits reduced by $1 for every $2 they earn in excess of $2,100 per year. It seems obvious to me that the reason why motivated restrictions on outside earnings have their roots in the depression era. In fact there were the years in which this legislation was initated. The idea was to force out older workers, leaving jobs open for younger wage earners supporting families.

The impact of this restriction on today's world has a most disadvantageous effect. Many older persons are pressured into retirement by their income benefits. As a result, a vast pool of valuable skills acquired through years and years of hard work are totally lost to the country. This loss, however, is miniscule, compared to the loss of any person feels when realizing his new status in our society is equivalent to the status of "noncontributor."

Mr. President, I have received many letters from elderly citizens in New Mexico carefully detailing the effect of the present very low outside earnings limitation. These are citizens who have worked all their lives and contributed to bear the financial stress of additional payments. The income limitation can be raised even higher and eventually removed from the law. Mr. PRESIDENT. Mr. President, I shall vote present" on the amendment to lower the age from 72 to 70 for recipients of social security to begin receiving benefits, since I would be personally affected by the outcome of the vote.

For a long time I have favored allowing recipients of social security to earn up to $3,000 a year without having the social security benefits affected. No impediment should be allowed that will discourage people from working.
I would even be willing to consider the removal of all earnings limitations. This is frequently raised as the earnings limitation and to lower the age limit is certainly a step in the right direction. I urge my colleagues to support this proposal.

SENIOR RANKIN supports effort to help elderly citizens

Mr. RANDOLPH. Mr. President, it is a privilege to cosponsor the amendment by unanimous consent, and to call the roll. The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from West Virginia (Mr. McGUIRE), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Texas (Mr. BENNET), the Senator from Iowa (Mr. HUGHES), and the Senator from Iowa (Mr. CLARK) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. BAKER), the Senator from Tennessee (Mr. BURDICK), and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Missouri (Mr. BURDICK), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from Idaho (Mr. MCCURDY) and the Senator from Oregon (Mr. PACKWOOD) are absent on official business.

The Senator from Wyoming (Mr. HANSEN) is detained on official business.

The result was announced—yeas 74, nays 15, as follows:

[No. 527 Leg.]

YEAS—74

Abourezk 
Allen 
Allen 
Beall 
Biden 
Brooke 
Bukley 
Burbeck 
Burbeck, Robert O. 
Cannon 
Clark, Curtis 
Clark 
Crull 
Domenici 
Dominick 
Eagleton 
Eastland 
Folsom 
Gravel 
Hughes 
Huse 
Byrd, Harry F., Jr. 
NAYS—13

Bartlett 
Bellion 
Benett 
Byrd, F., J. 
NOT VOTING—13

Baker 
Bentzen 
McGuire 
McGee 
McGee 
Hansen 
Young 

So Mr. Robert C. Byrd's amendment was agreed to.

The PRESIDING OFFICER. The issue now before the Senate is the unprinted amendment of the Senator from West Virginia (Mr. Robert C. Byrd), as modified. The yea and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, this amendment raises the income-earning level from the current $2,400 a year to $3,000 a year, and carries with it a modification by the Senator from Texas (Mr. Towson) lowering the age from 72 to 70, at which there is no limit.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Is this an appropriate time to add the names of cosponsors?

The PRESIDING OFFICER. It is. The Chair will advise that it is proper by unanimous consent.

Mr. EAYH. Mr. President, I ask unanimous consent that the names of the following Senators may be added as cosponsors of amendment No. 728 and the pending amendment: Senators BAYH, HARTZ, CANNON, SCHWEIKER, RINGOFF, HUMPHREY, and GRAVEL; and that the name of Senator CHILDS be added as a cosponsor of the pending amendment.

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

On this amendment, the yea and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll. Mr. THURMOND (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENNET), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. HUGHES), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. McGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Wisconsin (Mr. BURDICK) and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from Idaho (Mr. MCCURDY) and the Senator from Oregon (Mr. PACKWOOD) are absent on official business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Ohio (Mr. SAWYER) are detained on official business.

The result was announced—yeas 83, nays 1, as follows:

[No. 528 Leg.]

YEAS—83

Abourezk 
Allen 
Allen 
Beall 
Biden 
Brooke 
Bukley 
Burbeck 
Burbeck, Robert O. 
Cannon 
Clark, Curtis 
Clark 
Crull 
Domenici 
Dominick 
Eagleton 
Eastland 
Folsom 
Gravel 
Hughes 
Huse 
Byrd, Harry F., Jr. 

The assistant legislative clerk called the roll.

The assistant legislative clerk called the roll.

I urge support of the amendment. In approving this proposal we will be telling our older citizens: "We do not forget."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the pending amendment occur immediately following the vote on the amendment lowering to age 55, the term at which widows would be eligible to receive benefits.

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

The question now is on agreeing to Amendment No. 728. The yea and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, this is the amendment which would allow widows to elect to receive actuarially reduced benefits at age 55 rather than at age 60, as an amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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CONGRESSIONAL RECORD—SENATE
MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974.

AMENDMENT OF THE SOCIAL SECURITY ACT

The Senate continued with the consideration of the bill (S. 3135) to amend the Social Security Act to make certain technical and conforming changes.

AMENDMENT NO. 732

Mr. HELMS. Mr. President, I call up my amendment No. 732 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

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

Title I. 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 nontrust sources for such year.

Sec. 2. (a) Beginning with the fiscal year 1975, the President shall submit a budget pursuant to the Federal Accounting Act of 1921, as amended, in which non-trust-fund expenditures do not exceed non-trust-fund revenues for such 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 (Mr. DOMENICI). The Senate will be in order.

The Senator from North Carolina may proceed.

Mr. HELMS. Mr. President, I do not propose to take more than 5 minutes because the amendment is so clear that it does not need much discussion.

Mr. President, we are today considering a piece of legislation of astronomical proportions, we do have to think for a fiscal year about what might engange in on this floor and despite all the press releases we may issue to our constituents, the real nitty-gritty of the problem of social security lies in the inflation that is paralyzing the future of our young people, and frustrating the lives of senior citizens who are left helpless in trying to exist amidst constantly rising living costs.

I simply say that if we do not balance the Federal budget and thereby curb inflation, we will continue to invoke the inequities and unfairness of the Social Security System.

As matters now stand, the dog is chasing its tail, and the young people of this country in future years will have to pay the price for our failure to face up to our duty.

I point out again that the Federal debt limit was raised by the Senate by another $10.7 billion on Tuesday of this week. I am advised that the interest alone on the Federal debt already in existence will be $37.5 billion for the current year.

Mr. President, to reiterate what I have said many times before, this $37.5 billion tab that the American taxpayers pay—in interest alone on the existing Federal debt—each year amounts to $52,000 a minute. Or $578, Mr. President, every time the clock ticks, and this, mind you, is for interest alone on the existing Federal debt.

I say that a remedy such as this amendment sponsored by the distinguished Senator (Mr. HARRY F. BYRD, JR.), the distinguished Senator from South Carolina, and me is absolutely essential if we are really serious about doing something for the people of this country. And the way to do it is not merely through adjusting the social security law, and increasing the tax burden, but by changing the way of fiscal life in the United States. Our present way of doing things, Mr. President, is simply irresponsible.

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

Mr. HELMS. I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I compliment the Senator from North Carolina for his aggressive and effective remarks. I would like to be associated with him.

I am reminded in 1973 of the year 1928 when I was a boy in the country of Austria was going through the welfare system that we are going through at the present time. They were spending money that they did not have. The Austrian mark was regarded as the cornerstone of world currency.

I remember the warning that came from other countries to Austria at that time. Austria paid no heed to them. The Austrian mark went bankrupt, and the world depression started.

Mr. President, we are operating with dynamite when we spend money that we do not have. I do not think that it sounds to the recipient of social security, it will not do him any good if the dollar goes down the tube. The entire social security system is in danger of collapsing. I do not think that it can withstand the type of abuse we are heaping on it today.

I take this opportunity to thank the Senator from North Carolina for pointing out the dangers to the American people. We will do a great disservice to the American people and to the entire world if we risk bankruptcy and spend money that we do not have.

Mr. HELMS. Mr. President, I thank the Senator from Arizona for his remarks.

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

Mr. HELMS. Mr. President, I yield to my friend, the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I think that the amendment of the distinguished Senator from North Carolina, the pending amendment, would help to balance the budget if agreed to. It does not propose a new budget that we are now working on. It would become effective for the budget which will be submitted to Congress next January.

I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, it seems to me, when the Government of the United States should get back to balancing its budget. The amendment offered by the distinguished Senator from North Carolina requires that this be done on the new budget to be submitted to the Congress in January.

I emphasize that this measure would not affect the budget which Congress is now considering. It would become effective for the budget to be submitted for the new fiscal year.

I emphasize that the American people are being subjected to very severe inflation. These huge budget deficits are the major cause of the inflation.

When Mr. William McChesney Martin, the former chairman of the Federal Reserve Board—who is, I think, one of the ablest financial experts in the world—testified before the Senate Finance Committee about this question, I asked him how can we finance our deficits—not the wealthy who can protect themselves one way or the other—but how can we balance the budget which Congress is now considering. It would become effective for the budget to be submitted for the new fiscal year.

I emphasize that the American people are being subjected to very severe inflation. These huge budget deficits are the major cause of the inflation.

It is very difficult to do. But I think it is important, if inflation is to be controlled that the Federal spending be controlled.

I said: "Would it be accurate to say that perhaps the best way in which the average citizens of our country can protect themselves against inflation would
be to demand of the Members of the Congress, their elected representatives, that they get back to balancing the budget and eliminate these smashing deficits."

Mr. Martin replied that that was the purpose of his testimony, that we eliminate these deficits and get back to balancing the budget.

The able Senator from North Carolina is seeking to do just that with his amendment. I am pleased to support him.

Mr. HELMS. Mr. President, let me say that I am always encouraged by the remarks of my friend, the distinguished Senator from Virginia, who has been a leader in the fight for fiscal sanity, as was his distinguished father before him.

I am proud at all times to be associated with him.

Mr. President, at Mr. President, on a consolidated budget basis, which is the way we say another Herbert Hoover program something along that line, to be ready in a deep depression as well as keeping spending to keep this country from being offset, with all the layoffs that are occurring in our stone age economics.

If we go into a recession with all the layoffs, spending will mean we could not step up Government spending to keep the recession from growing. This amendment we are now required to cut spending, if we go into a recession will mean we could not step up Government spending to keep the recession from growing.

But again I say I concur with the overall objectives, and I share the frustration of the Senator from North Carolina would have to, regrettably, vote against this amendment, but would do so in the hope that we will move toward adoption of the budget reform bill, which will get at the same kind of problem and show us a way to cut spending, particularly in boom periods.

Mr. FONG. Mr. President, may I ask the distinguished Senator from North Carolina a question?

Mr. HELMS. I yield.

Mr. FONG. What is the purpose of the amendment before the Senate?

Mr. HELMS. The purpose of the amendment is to put the Senate on record one way or the other. I have accomplished an ancillary purpose here; I have got the admiral of my friend from Louisiana stirred up a little bit. But at least we are thinking about a balanced budget and fiscal responsibility in the United States of America.

Mr. FONG. Is the Senator referring to the debt?

Mr. HELMS. I am referring to nontrust fund money.

Mr. FONG. What is the Senator's position in reference to trust funds?

Mr. HELMS. When we talk about nontrust fund expenditures, I would say to the Senator.

Mr. FONG. Mr. President, as I understand the present budget system, we are under a unified budget system. Prior to the administration of President Lyndon Johnson, we were on a general funds budget, but the Vietnam situation escalate expenditures so much that a tremendous deficit was created, and the administration was forced, more or less, to achieve a lower deficit. So it called upon the money in the present budget system, and collected all this money into what we call a unified budget. By putting all this money into a fund known as the unified budget, President Johnson cut down the deficit by $4 billion to $7 billion, as I understand.

So today, we are following a budgetary program which is to end the deficit, and probably it is $4 to $5 billion that we have not been shown to the public. Thus, when we talk about a budget deficit of $12 billion, we been worked out by the distinguished Senator from Maine (Mr. Muskie), with which we do not give us goals where we weigh one priority against another, and then make it exceedingly difficult, once we establish that overall ceiling, to break the ceiling—it could only be done by a two-thirds vote to set aside the rules, or by putting in a new concurrent resolution which requires us to take an overall, entire look at the picture again—I think that makes a reasonable way to approach it.

I would hate to see us put ourselves in a straitjacket at a time of economic recession when we have large scale unemployment, when welfare costs were high, and we needed to use the fiscal policy of the Federal budget to stimulate the economy, rather than depress it, to help us in a straitjacket at that time and unable to move.

Furthermore, Mr. President, because of the energy crisis, we are in grave danger of a recession. This amendment would mean we could not stop government spending which is the way to become becoming a depression. This is Herbert Hoover economics reincarnated. To cut back on energy spending, it is a great big cutback in spending even though we have a balanced budget overall.

The objection I would have to this amendment is that it would remove the flexibility we may need in periods of need. I think that Senator Johnson and the liberals and moderates in this body that is sort of ridiculous, in the face of one billion dollars, a great big cutback in spending even though we have a balanced budget.

Mr. HELMS. Mr. President, I certainly would not quarrel with the amendment of the distinguished Senator from North Carolina to try to put fiscal responsibility back into the Federal budget. I think we all share that desire, and are trying to work toward that end in different ways.

Mr. PERCY. Mr. President, I certainly would not quarrel with the amendment of the distinguished Senator from North Carolina to try to put fiscal responsibility back into the Federal budget. I think we all share that desire, and are trying to work toward that end in different ways.

The objection I would have to this amendment is that it would remove the flexibility we may need in periods of need. I think that Senator Johnson and the liberals and moderates in this body that is sort of ridiculous, in the face of one billion dollars, a great big cutback in spending even though we have a balanced budget.

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Mr. HELMS. Mr. President, let me ask the amendment to cut back on the budget control bill that has now been reported out, of which I am the able Senator from North Carolina a question?

Mr. FONG. Mr. President, may I ask the distinguished Senator from North Carolina a question?

Mr. HELMS. I yield.

Mr. FONG. What is the purpose of the amendment before the Senate?

Mr. HELMS. The purpose of the amendment is to put the Senate on record one way or the other. I have accomplished an ancillary purpose here; I have got the admiral of my friend from Louisiana stirred up a little bit. But at least we are thinking about a balanced budget and fiscal responsibility in the United States of America.

Mr. FONG. Is the Senator referring to the debt?

Mr. HELMS. I am referring to nontrust fund money.

Mr. FONG. What is the Senator's position in reference to trust funds?

Mr. HELMS. When we talk about nontrust fund expenditures, I would say to the Senator.
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are actually talking about a budget deficit of $17 billion.

Mr. HELMS. That is correct.

Mr. CHURCH. The president, I hope, will have to add
another $5 billion more, for the money that we receive from our trust funds, like
money that goes into the social security program and money that goes into the
highway program, all of it, but paying that
money as it comes in, and saying it is
part of the general fund, we are just de-
ceiving ourselves.

Mr. President, the program which we
are not in the habit of paying into
Social Security is known as the
social security program. It was based on
the theory that this was an insurance
program and that the premiums paid in
by the workingman would some day be
used so that he would be able to receive
benefits when he retired.

If we were running an insurance com-
pany and were running it the way we ask
members to run it, we would all be in jail.

Mr. President, I have been accusing
that the premiums that come into the
program are now being used for the current
recipients of the program, and when those
people retire, there will be no more money in the
program.

Let me explain.

If we were running a private insurance
company and were running it the way we ask
members to run it, we would all be in jail.

Mr. President, I am accused of
being a mossback. I may be said
to be missing the boat. All I want to
say is that if we are really going to
be running the social security program like
an insurance program, we must have a reserve
fund for future use, so that by the time
we get to that age there will be no money
in the program left and we will be bank-
rupt.

I applaud and commend the distin-
guished Senator from North Carolina
for presenting this amendment to the
Social Security program.

Mr. HELMS. I thank the distinguished
Senator from North Carolina (Mr. HELMS).
He has really given us something to
think about. We should be looking at this
from a social standpoint. We cannot
continue to eat into this money,
which should be set aside as a reserve
fund for future use, so that by the time
we get to that age there will be no money
in the program left and we will be bank-
rupt.

Mr. President, I may be accused of
being a mossback. I may be said to be
fossilized. I may be categorized as ar-
chaeal, as my good friend from Louisiana
has simply said, but the simple
arithmetic still shows that to be true.

Let us not play games. A balanced budget
is a balanced budget—and Senators to-
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what is being done to their future.

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Let us not play games. A balanced budget
is a balanced budget—and Senators to-
day have an opportunity to demonstrate
what is being done to their future.

But the question is: Are we willing,
this day, to put ourselves on record as
being in favor of a balanced budget?
This Senator from North Carolina is.

Mr. HELMS. I am glad to yield to the
Senator from Idaho.

Mr. CHURCH. The distinguished Senator from North Carolina is.

Mr. HELMS. I am sorry, but I cannot
hear the Senator.

Mr. CHURCH. The Senator from North Carolina has made a very persua-
sive argument for his amendment—can the Senator hear me now?

Mr. HELMS. Yes, and I like what I hear.

Mr. CHURCH. I am inclined to support
it, but I want to make sure I understand it.

As I read the amendment, section 2 states:

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 ex-
penses do not exceed non-trust-fund revenues for each fiscal year.

As I read that language, if it became
law, Congress would merely be instruct-
ing the President to submit to Congress a budget in balance. Then
Congress would consider what parts of that budget it
might want to decrease, and what parts it
might want to increase. Congress cannot
be bound by the President's budget. Only
Congress can adjust to Congress' needs. Then
President a budget which was in balance, and
then Congress could pass judgment on it. Is that not the effect of the amendment?

Mr. HELMS. The Senator from Idaho
is eminently correct.

Mr. CHURCH. I think it is a good
amendment. The arguments addressed
against it do not seem to me to be con-
vincing.

Mr. HELMS. I will yield to the Senator from North Carolina.

Mr. HELMS. I will be through in a
minute.

Mr. CHURCH. For a question?

Mr. HELMS. Just 1 minute.

Mr. President, I have become accus-
tomed to having my amendment tabled
but, nevertheless, the people of this
country will get the message. We will be
voting, whether on this tabling motion or on
the amendment, if you will. I have become
persuaded what would be the reaction of the
President's budget. Is that not the effect of the amend-
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President's budget. Is that not the effect of the amend-
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against it do not seem to me to be con-
vincing.

Mr. HELMS. I thank the Senator from
Idaho very much. The most we are doing
is to put ourselves on record. We are say-
ing to the President, "Send us a balanced
budget and then we will make sure we
vici-

Section 1 begins:

Becasue 1. Beginning with the fiscal year
1975, the non-trust-fund expenditures of the
Government of the United States for each fiscal
year shall not exceed its revenues from all nontrust sources for each year.
Mr. President, that is as clear as anything I have ever seen, that under the amendment we could not spend $1 more than we take in on a Federal funds basis. According to the current administration budget projections, in fiscal year 1974 we will have a surplus of $15 billion in trust funds, and they project a deficit of $15 billion on a Federal funds basis. That means that if this amendment were in effect at this time—as written, it goes into effect next year—the President would have to make a $15 billion cut in the budget. The amendment does not talk about just submitting a plan or going through the intellectual exercise, but about actually spending no more than is taken in—which this year would mean cutting out $15 billion of spending.

We have heard people complaining about some irresponsible cutbacks, particularly those involving expenditures in their States. But they have not seen anything, compared to what this amendment does. The amendment would mean—if it were effective this year, a $15 billion cut in addition to things that have already been cut. The amendment is not talking about an intellectual exercise. You have to cut the budget down, and you cannot spend one dollar more than you take in. The amendment does not even tell the President how or what to cut, by the way—just take that meat ax and slash away.

Those who complain about some irresponsible cutbacks, just have not seen anything, compared to what this amendment would mean.

Section 1 reads:

Section 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 nontrust sources for such year.

The Senate would not have to consult Congress, but just to take that meat ax and go to work on the budget. That would be a very different thing to do, and would be a lot less foolish to do next year.

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

Mr. LONG. I yield.

Mr. BEALL. I am not quite understanding the Senator. I get the same reading out of section 1 that he does, that the expenditures have to equal the revenues. But the Senator is implying that the only way to make this happen is through reduction of expenditures. You could also increase revenues, could you not, to take care of expenditures?

Mr. LONG. Yes, you could increase taxes.

Mr. BEALL. All the President has to do, then, is to submit a budget that is in balance. He does not necessarily have to cut any, but show us the revenue that will pay the bill. Is that not correct? And Congress could do the same thing.

Mr. LONG. If the legislation raising the revenue is put in place, then the money comes in; yes. That is what you could do.

But here we have a situation in which committees set up by Presidents—Democrats and Republicans—have recommended that the budget be kept on a consolidated, overall basis; and that we take the view that if we have a balanced budget on that basis, as long as we are talking in money as we are spending, we can safely do business in that fashion. One committee was headed by a very distinguished banker and outstanding Republican, Mr. David R. Francis, former Secretary of the Treasury.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. LONG. Mr. BROOKE. As I read the amendment, it requires that the nontrust fund expenditures of the Federal Government each fiscal year shall not exceed its revenue, beginning in fiscal 1972.

As I understand it, the information, that the distinguished Senator from North Carolina gave to the distinguished Senator from Idaho was that the intent of this amendment is merely to instruct the President to submit a balanced budget. I do not get that meaning from the language of this amendment.

Could the Senator explain whether we are merely instructing the President to submit a balanced budget or requiring, as the amendment says, and I think I am reading it correctly—that the nontrust fund expenditures of the Federal Government each fiscal year shall not exceed its revenues? Which is it?

Mr. LONG. If the Senator will read section 1, I see that it says that you cannot spend any more than you take in, as compared to your nontrust fund basis. That is what the language says.

Mr. President, I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the excerpt is printed in the Record, as follows:

Section 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 nontrust sources for such year.

Section 2 says that the President shall submit a balanced budget on that basis.

Mr. BROOKE. Yes, but one cannot read section 1 without reading section 1. Section 1 is an essential requirement. It would appear to me that it is a definite requirement.

Mr. LONG. What the amendment provides is two things. I cannot see whether it makes any difference whether the first part is first or the second part is first. What it says is that the President shall submit a balanced budget on a nontrust fund basis, and we will not spend any more than is in that balanced budget. That is on a non-trust-fund basis.

Mr. BROOKE. That is my interpretation. I thought we had a check on it until the question was asked by the Senator from North Carolina. When the Senator from North Carolina (Mr. HELMS) responded, he seemed to be saying that the intent was merely to instruct the President to submit a balanced budget.

Is that as far as the Senator from North Carolina intends the amendment to go?

Mr. HELMS. No, indeed; it is not as far as I intend that it shall go. I intend that the Senate be on record as to a balanced budget. On any occasion that we stray from it, we do so overtly, so that the people can see what we have done.

Mr. LONG. Mr. President, I decline to yield for speeches. I will yield for one or two more.

Mr. BROOKE. The Senator has answered the question.

Mr. LONG. It seems to me that the point the Senator insists upon—for a balanced budget on a nontrust fund basis, such as when I came here 25 years ago—I think I have demonstrated what that means.

I move to lay the amendment on the table.

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

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table.

Mr. LONG. Mr. President, if the Senator wants to ask a question—

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

Mr. LONG. Mr. President, I shall withdraw my motion to lay this amendment on the table and ask a question. I yield for a question.

Mr. CHURCH. I think that, in a way, we have been chasing our tails in this argument. Section 1, it is true, does call for the nontrust fund expenditures to be held in line with nontrust fund revenues. But the effect of the amendment would be to instruct the President, first of all, to send Congress a budget that conformed to this standard. It is always open to Congress, then, in the exercise of its privilege, to increase the budget, if it chooses. Section 1 is not binding—and could not be—on a future Congress. But we can instruct the President to help send us a balanced budget, accepting full responsibility for any changes we make thereafter. So I think the essence of the amendment is as I have discussed it herebefore.

Mr. LONG. There, again, the Senator complains that he would not put us into this trap; and then he tries to find a way out. I have been in those traps before. Senator from Delaware, Mr. Williams, used to set such traps, and I would spend my time trying to get out of them.

I would not worry about that, because we have a Republican President, and I am a Democrat. Usually I can blame all these tricks on the Republicans. But I have found that they often spill over onto Democrats.

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

Mr. LONG. I yield.

Mr. PASTORE. I am sure the Senator knows what would happen as a practical matter. If the President of the United States would submit a budget. He would put a lot of tidbits in it and say, "I suggest a tax increase of 50 percent. The revenue from that would be billions of dollars." I am balancing the budget. The cat is right on your back. You go ahead and raise taxes by 50 percent. Otherwise, you will have to begin to chop out all the tidbits I have put in.

Mr. LONG. Otherwise, the ones who stand well with the President will not be cut with a meat ax, while those who do
The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I have an amendment at the desk. I ask that it be reported.

The PRESIDING OFFICER. The Senate has two amendments. Will the Senator rising on the amendment, please?

Mr. BELLMON. Amendment No. 736, as modified.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read amendment No. 736, as modified.

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

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

Amendment No. 736, as modified, is as follows:

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Mr. BELLMON. Mr. President, this amendment is very simple. It simply takes note of the fact that perfection in the administration of these programs is impossible and instructs the Secretary of HEW to study the programs and to recognize that we are all going to have a certain amount of ineligibility and to establish acceptable standards for programs which the States are administering.

I have discussed the amendment with the author of the bill. It was my understanding that he would accept the amendment.

Mr. LONG. Mr. President, I agree with that amendment. I think it is all right. I am willing to accept it.

Mr. BELLMON. Mr. President, I yield back the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 736 of the Senator from Oklahoma, as modified.

The amendment, as modified, was agreed to.

Mr. HELMS. Mr. President, I call up my amendment No. 741 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk read amendment No. 741, offered by Mr. Helms for himself and Mr. Thurmond, as follows:

SEC. 2. Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a plan for a national-wide energy conservation program which shall include measures to reduce energy consumption by no less than 10 per centum within ten days, and by no less than 25 per centum within four weeks after implementation, through the imposition of limitations on the transportation of gasoline in schools operated by local or State educational agencies, as defined in sections 801(f) and 810 of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without the use of fuel, or be transported through public means of conveyance no further than to the appropriate school nearest their residence.

Mr. HELMS. Mr. President, this amendment was before the Senate not long ago. It is my understanding that a motion to table this amendment will be made this afternoon.

I would simply reiterate that a vote to table an amendment is a vote to continue to waste millions of gallons of gasoline for the unnecessary, unwise and disruptive purpose of the forced busing of schoolchildren.

The PRESIDING OFFICER. The amendment is rejected today, I intend to submit it again.

Mr. ALLEN. Mr. President, would the distinguished Senator from North Carolina yield to me?

Mr. HELMS. Mr. President, I yield to the distinguished and able Senator from Alabama.

Mr. ALLEN. Mr. President, I ask the Senator from North Carolina if he will agree to listing my name as a cosponsor of the amendment?

Mr. HELMS. Mr. President, I ask unanimous consent that, at the next printing of this amendment, the names of the Senator from Alabama (Mr. ALLEN) and the Senator from Florida (Mr. GUSZY) be listed as a cosponsor. I am delighted to have them join in its sponsorship.

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

(Several Senators addressed the Chair.)

The PRESIDING OFFICER. The amendment from North Carolina has the floor.

Mr. ALLEN. Mr. President, may I have the floor in my own right? Did the Senator yield the floor?

Mr. HELMS. I did not yield the floor. I yield to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from North Carolina.

Mr. President, our people are face to face with the prospect of gasoline rationing. I am confident that the average citizen is willing to assume inconveniences and even hardship if necessity compels us to such drastic action. However, it will be a mistake to discount the commonsense of reasoning which governs their reactions to crises of this nature. They are not likely to insist that rationing of gasoline or other fuels must conform to standards of basic fairness and reasonableness.

Mr. President, fairness and reasonableness demand that gasoline supplies be conserved by the elimination of wasteful and unnecessary consumption. Each of us can identify separate prime targets

Mr. President, agreed to.

So Mr. Lang's motion to table Mr. Helms' amendment (No. 723) was agreed to.
of unnecessary consumption. However, no example of waste in the consumption of gasoline is more blatant than the artificial demand resulting from arbitrary, unreasonable, and irrational forced busing plans for racial balance which have been imposed by Federal court judges. This waste must stop.

Mr. President, in Alabama the annual consumption of gasoline for operating school buses has increased tremendously in the last 5 years.

Mr. President, much of this increase is attributable to decrees of U.S. district courts, which we have convinced is a mistaken conception of constitutional requirements. For example, some Alabama city school systems have been ordered to bus children for the sole purpose of achieving an arbitrary racial mix in the schools, even though such city school systems had never before operated buses to transport children.

To contend that the U.S. Constitution requires the Senate to intervene and to purchase buses, employ and train bus drivers, establish maintenance shops, and assume the cost of operating, maintenance and obsolescence of busing equipment for school systems had never before operated is an arbitrary racial mix in the schools, even though such city school systems had never before operated buses to transport children.

However, you must deny to other children residing in your zone or district the right to attend their neighborhood schools, that requires the school board to treat children similarly situated in a different manner, and therefore clearly violates the equal protection clause.

Mr. President, I certainly agree with the Senator from Alabama.

Mr. ERVIN. Mr. President, I would like to ask the Senator from Alabama if the equal protection clause does not clearly prohibit a State from treating in a different manner persons similarly situated.

Mr. ALLEN. That is certainly true. And that was the reasoning of the original Brown decision, from which the Supreme Court struck down 180 degrees.

Mr. President, I ask the Senator from Alabama if it is not true that when a Federal court says to a school board, "You may permit some of your children to attend school in a district to attend neighborhood schools. However, you must deny to other children residing in your zone or district the right to attend their neighborhood schools." that requires the school board to treat children similarly situated in a different manner, and therefore clearly violates the equal protection clause.

Mr. ALLEN. I certainly agree with the Senator from Alabama.

Mr. ERVIN. Mr. President, I ask the Senator from Alabama if, when a Federal court hands down a decree requiring a school board to do something, it does not say to the school board, in addition to what I have already mentioned about treating children differently, "You must take these children whom you denied the privilege of exercising their constitutional rights to attend their neighborhood schools along with others similarly situated, and place them in a bus and transport them to schools located elsewhere where either for the purpose of decreasing the number of children of their race in the neighborhood school or increasing the number of children of their race elsewhere." I ask the Senator from Alabama if that does not violate the equal protection clause as interpreted in the Brown case a second time in that it denies the children who are required to be bused to other schools admission to their neighborhood schools solely on account of their race.

Mr. ALLEN. I certainly agree with the Senator from North Carolina.

Mr. ERVIN. We are not only confronted by decisions of courts, which are repugnant to the constitutional provisions they profess to interpret, but in this time of a shortage in energy we are also engaging in wasting a scarce commodity which is absolutely essential to the welfare of the country, for a purpose which is absolutely inconsistent with any proper interpretation of the equal protection clause.

Mr. ALLEN. I agree with the Senator from North Carolina. I thank the Senator from North Carolina for his remarks.

Mr. ERVIN. Mr. President, I thank the Senator from North Carolina and the Senator from Alabama for their remarks.

I yield now to the Senator from Colorado.

Mr. DOMINICK. Mr. President, for a long time I have been an opponent of the forced busing or the confusion to overcome racial imbalance. However, there are a great number of schools in the West and also in the East which are in many cases overcrowded. Now, without discussing the racial situation at all, they rely on bus-

ing in order to get to their school. If we were to eliminate busing, then we would have the very difficult problem of, maybe, having an increase in the use of gasoline by parents bringing their kids to school if they could find the time to do so.

I do not see any reference to racial imbalance in the amendment. It bothers me that because we have a problem in one state, there would be no way to get to school most of the time if it were not for the busing system.

Mr. HELMS. Mr. President, I would say that the amendment on the desk rests on the words "insofar as possible." Of course, the judgment would be left to the school boards in the districts as to what is best for the children. Specifically, we are addressing ourselves to the forced busing of school children against their will.

Mr. DOMINICK. And that is the Senator from Alabama's amendment.

Mr. HELMS. That is the intent of the amendment.

Mr. DOMINICK. Mr. President, I am a bit puzzled by the amendment, because it directs the President to design an energy conservation program which shall include measures capable of reducing energy consumption by no less than 10 percent within 10 days and no less than 25 percent within 4 weeks after implementation of an imposition of limitations on the transportation of students in schools operated by local or State educational agencies.

I do not have a chart here. I have one in my office that delineates a rather carefully the energy consumption of the country by industry and occupation, and I believe it shows that if you closed every factory in America and kept the children home, and if you closed every high school in America and kept the children home, I doubt very much whether it would save 1 percent of the total energy consumption of America, which includes all the energy from coal for running factories and power plants, all the energy from the major water resources of the country, all the energy from oil, from gasoline, and from nuclear power.

We have an amendment here that would purport to solve all the problems in the country and would really accomplish anything because it could not save that much energy in any conceivable way.

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

Mr. NELSON. I yield for a question.

Mr. HELMS. I would attempt to answer the question the Senator has raised. If the Senator would yield?

Mr. NELSON. Yes, I am glad to yield for that purpose.

Mr. HELMS. The language in the first seven lines I propose refers to the entire package of various remedies contained in the energy bill which has already been passed by the Senate, and is drawn to make it consistent therewith. The discounting of forced busing would be only one of the many proposed remedies.
Mr. NELSON. If there is any such language in there, I do not read it. All it says, as I read it, is that the President is going to save 25 percent of the energy consumption in America by limiting the transportation of students in school buses. That is the way the plain language reads to me. I just say it cannot be done, apart from the fact that I do not agree with its purpose.

Mr. President, I am prepared to make a motion to table the amendment.

Mr. JAVITS. Mr. President, the Senator will yield to me, this is the second time this matter has been up within a very short time. The Senator from Wisconsin has already pointed out the basic imperfection, in my opinion, in the very drafting of its amendment. I would also like to point out another imperfection in terms of its drafting. It has been stated in answer to a question by the Senator from Colorado (Mr. Domenici) that the limitations on busing should only be insofar as possible. Again, I do not find that in the amendment. The "insofar as possible" relates to students from school, and then with the further qualification that if they were conveyed they should be conveyed no farther than to the appropriate school nearest their residence. That is a realistic neighborhood school idea, which would not answer this question either, because county central schools are not necessarily nearest the child's residence. But assuming all this would be possible, Mr. President, Mr. Helms makes the differences by changing the language, the substance of the amendment is to use the energy emergency, truly to pour gasoline on the flames of racial differences in the United States. The idea that they have all been dispelled and gone away we all know not to be true. Fortunately for us, at a time when we have deep troubles of many other kinds, there is some feeling of stability in the country upon this issue. Mr. President, I would say an American, let alone a Senator, should thank God for us that it is not that it will bite us very short time ago and may unhappily be again.

But if we want one way to create such an atmosphere, this is it. All we have to do is undo central schools and engage in the busing battle all over again, and we will really be pouring gasoline on that fire.

I think each Senator should vote to table this amendment without regard to the details precisely for that reason, because this is something we ought not to be dealing with right now. As long as it is not hitting us, let us not hit it.

Secondly, we did not attempt to utilize the utmost the problem by establishing criteria in the higher education bill, where this matter was wrestled with and fought over and finally written into some kind of legislative form. The Senator said that although I was one of those who had a great deal to do with fashioning the final higher education bill, I, with others like Senator Mondale, found it in conscience necessary to vote against the conference committee. If we were deeply concerned about the effect of these very amendments, or amendments dealing with this very question, which were incorporated in that bill.

I say that only to indicate that though I am by no means satisfied, I think existing conditions have reduced tensions, unlike the reporting of the amendment, and I think it would be unwise, in the interests of our Nation, to bring this issue to the fore by a positive act of denial of the kind which this represents.

I would be prepared to make an employment with respect of energy conservation, which we do, and if we want to retain equalitarianism—and that is why so many of us favor the most equalitarian way in which to meet the problem—we certainly do not wish to give new cause for profound public tension in an area which has been tension-riden enough, and in which we need invite no more.

So I hope very much that Senator Nelson's motion, which will imminently be made, to lay the amendment on the table will prevail.

Mr. HELMS. Mr. President, I would simply emphasize again, just before the motion to table, that Senators who vote to table will be voting to continue to waste millions of gallons of gasoline each year for an unwise, unworthy, destructive purpose.

The distinguished Senator from New York, who knows of my admiration for the kind of law which was of such a nature where this matter was wrestled with and finally written into some legislation which this represents.

I do not know how to square his appraisal of that situation with various polls which have been made available to me, polls showing, as I recall, that over 80 percent of the parents of black children of this country resent just as deeply as anyone else the forced busing of their children across the county for no purpose at all except to satisfy the whims of some Federal judge or Federal bureaucrat.

So I simply say, just prior to the motion to table which I understand is coming, that any Senator who votes to table the amendment will be voting to continue to waste millions of gallons of gasoline on forced busing of students.

Mr. THURMOND. Mr. President, I rise in support of this amendment.

In the first place, the amendment is so drawn that it would encourage school children to walk to school if possible without any public transportation, thereby saving fuel, where they live close enough to their school. If they are transported, it provides through public means no further than the appropriate school nearest their residence. It simply means that a child can attend the school nearest his home. Now the polls which have been taken all over the country show clearly that members of the white race and members of the black race oppose the busing of schoolchildren so as to bring about a racial balance.

This amendment is predicated on the theory of saving gasoline and it should save millions of gallons of gasoline and at the same time would accomplish the purpose—certainly partly so—of transporting children in order to bring about a racial balance.

The Supreme Court decision of 1954 has declared that no child could be deprived of entering any school because of his race or color. But, since that time, some Federal judges have taken different actions and have done a lot to turn away from that decision, in holding that a child of one race can be transported to a school of another race simply to bring about a racial balance.

Mr. President, I understand that in the home State of my distinguished friend from North Carolina (Mr. Helms), there is one child being transported on a schoolbus for miles and miles just because of a racial balance. That does not make any sense. It is a waste of fuel. It is an imposition on the child.

I think the time is not far off when the people of this country will realize that the asinine policy must be changed.

I realize that some of the leaders of some races have taken an opposite position and have gotten concrete on it, in that they hesitate to withdraw from their position.

Mr. President, this is not the kind of legislation to discriminate against anyone. This is the kind of legislation that will help children, and will help parents. It is unfair to the child, especially, to keep him on a schoolbus riding around for several hours a day just to bring about a racial balance, when he could go to school maybe within a block of his home, or nearer his home, and save his time.

Mr. President, I do not believe there is any use taking up a lot of time to discuss this issue. We are all familiar with it.

I hope that the Senate will see fit to adopt the amendment.

Mr. NELSON. Mr. President, I move to table the pending amendment.

Mr. HELMS. 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 to table the amendment (No. 741) of the Senator from North Carolina (Mr. Helms) and of the Senator from New Mexico (Mr. Montgomery) is necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. Meyer) would vote nay.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Utah (Mr. Bennett), the Senator from Virginia (Mr. Williams), the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from Idaho (Mr. Mc-
Mr. HELMS. Mr. President, I send to the pertinent committee an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HELMS. 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:

AMENDMENT No. 742
At the end of the bill add a new title as follows:

Sec. — (a) The Food Stamp Act of 1964, as amended, is amended by inserting in section 5 thereof the following:

"(c) Notwithstanding any other provision of law, a household shall not participate in the food stamp program if its principal wage earner is, on account of a labor dispute to which he is a party or to which a labor organization of which he is a member is a party, on strike: Provided, That such ineligibility shall not apply to any household that was eligible for and participating in the food stamp program immediately prior to the start of such dispute, dispute, or other similar section in which any member of such household engaged: Provided further, That such ineligibility shall not apply to any household if any of its members is subject to a strike: Provided further, That such ineligibility shall not apply to any household if any of its members is subject to a strike."
the head of the household is engaged in a labor strike.

This bill was referred to committee, and the full Senate has not yet had an opportunity to vote on it.

Today I am pleased by the fact that Senator Helms is offering an amendment, of which he has given some indicative excerpts, which we hope the President is willing to go. So if we have to make efforts to override a veto, we will have a bill which we will be able to pass even over that veto.

With all of the things that are in the bill now, it would not take a great deal of dilatory tactics to prevent the bill from becoming law.

When we have a chance to pass a bill on the basis of getting a clean vote on this issue, up or down, and where we may have some prospect of getting something, I will be willing to cooperate to help the Senate provide an answer, but for now we just would not achieve it. All we would do is defeat good provisions in the bill which deserve to become law between now and January 1.

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

Mr. LONG. I yield.

Mr. HUMPHREY. I think another point needs to be made, which the Senator from Vermont was attempting to make, and that is, that we are unable to work or to find employment and, therefore, cannot support their families. It should not be the purpose of the program to subsidize those who are unable to work or to find employment and, therefore, cannot support their families.

The taxpayers bear the ultimate burden of financing this program. Tax dollars should not be spent on food stamps for those who voluntarily refuse to work, but should be used to help those who have jobs and are able to support their families.

Mr. President, the time has come to reevaluate our priorities with regard to the food stamp program. The purpose of the food stamp program is to assist those who are genuinely in need.

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

Mr. THURMOND. I yield.

Mr. HUMPHREY. I think another point needs to be made, which the Senator from Vermont was attempting to make, and that is, that we are unable to work or to find employment and, therefore, cannot support their families. It should not be the purpose of the program to subsidize those who are unable to work or to find employment and, therefore, cannot support their families.

When the taxpayers realize this fact, they are outraged because their tax dollars are being used to help one side in the labor dispute.

To provide strikers with food stamps is to allow the Government to take sides in the dispute. This is not the purpose of the food stamp program. The purpose of the food stamp program is to assist those who are genuinely in need.

Mr. President, the time has come to reevaluate our priorities with regard to the food stamp program. The purpose of the food stamp program is to assist those who are genuinely in need.

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

Mr. THURMOND. I yield.

Mr. HUMPHREY. I think another point needs to be made, which the Senator from Vermont was attempting to make, and that is, that we are unable to work or to find employment and, therefore, cannot support their families. It should not be the purpose of the program to subsidize those who are unable to work or to find employment and, therefore, cannot support their families.

The taxpayers bear the ultimate burden of financing this program. Tax dollars should not be spent on food stamps for those who voluntarily refuse to work, but should be used to help those who have jobs and are able to support their families.

Mr. President, the time has come to reevaluate our priorities with regard to the food stamp program. The purpose of the food stamp program is to assist those who are genuinely in need.
So the motion to table Mr. Helms' amendment was agreed to.

Mr. CHURCH. Mr. President, I call up amendment No. 664, and ask that it be stated.

The PRESIDING OFFICER. The amendment is as follows:

On page 9 add the following at the end thereof:

Sc. 1880. (a) Nothing in this title shall discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or in the performance of any sterilization procedure or abortion if the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions respecting sterilization procedures or abortions by such person would be contrary to his religious beliefs or moral convictions of such personnel;

(b) any agency, institution, or facility which receives any payment under this title may—

(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions;

(B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedure or abortion by such personnel would be contrary to his religious beliefs or moral convictions of such personnel;

(c) The amendments made by this section shall be effective on the first day of the month following the month in which this Act is enacted.

Mr. CHURCH. Mr. President, earlier this month I announced my intention to offer this amendment to the pending bill. It would provide that the personnel, who by participation in the medical community are recipients of Federal funds, shall not be required, on the basis of this aid, to participate in the performance of sterilization procedures or abortion. Only if the performance of such procedures is in violation of that individual's religious beliefs or moral convictions.

With only technical modifications, this is the same provision adopted overwhelmingly by Congress as title IV of S. 1136, the omnibus health bill, subsequently signed into law—Public Law 93-45. I originally authored the 'conscience clause,' and I am pleased that Senator Domenci, Eastland, Buckley, Eagleton, Bible and Proxmire have asked to join as cosponsors of my amendment, No. 664, to the social security amendments, and I ask that the record so indicate. This amendment is necessary if we are to protect the religious beliefs of those personnel who receive Federal assistance through their participation in medicare and medicaid programs. I urge my colleagues to act favorably to extend this protection to those personnel who receive Federal assistance through their participation in medicare and medicaid programs.
The President pro tempore of the Senate appointed Mr. Church, the distinguished senior Senator from Delaware (Mr. Rosten) as chairman of the committee to which the amendment was referred. Mr. Rosten asked that his name also be added as a cosponsor of the amendment.

The amendment was agreed to without objection.

The question is on agreeing to the amendment (No. 864) of the Senator from Wisconsin (Mr. Sidoti).

The amendment was agreed to.

The question is on agreeing to the amendment (No. 125) of the Senator from Montana (Mr. Smathers) to the bill.

The question is on agreeing to the amendment (No. 864) of the Senator from South Dakota (Mr. Stevenson) to the bill.

The question is on agreeing to the amendment (No. 125) of the Senator from Arkansas (Mr. Hatfield) to the bill.

The question is on agreeing to the amendment (No. 864) of the Senator from Nevada (Mr. Cannon) to the bill.

The question is on agreeing to the amendment (No. 125) of the Senator from New York (Mr. Goodwin) to the bill.

The question is on agreeing to the amendment (No. 864) of the Senator from Missouri (Mr. Morse) to the bill.

The question is on agreeing to the amendment (No. 125) of the Senator from Wisconsin (Mr. Sidoti) to the bill.

The question is on agreeing to the amendment (No. 864) of the Senator from South Dakota (Mr. Stevenson) to the bill.

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The question is on agreeing to the amendment (No. 864) of the Senator from Missouri (Mr. Morse) to the bill.

The question is on agreeing to the amendment (No. 125) of the Senator from Wisconsin (Mr. Sidoti) to the bill.
The meager evidence adduced by Dr. Watkins was not sufficient to support any monetary relief against defendants.

Dr. Watkins alleged in his complaint that the Medical Staff and the Executive Committee of the Medical Staff acting under color of law, deprived him of his constitutional rights in violation of 42 U.S.C. 1983. The court held that the evidence failed to show that the hospital was acting under color of law.

The plaintiff alleged that the hospital operated under the direction of the Medical Staff and the Executive Committee, and that these bodies were acting under color of law. However, the court held that the evidence did not support this claim.

The plaintiff was denied reappointment to the medical staff of the hospital in 1973. The court held that the hospital's denial of reappointment was not actionable under 42 U.S.C. 1983.

The plaintiff requested both injunctive and compensatory relief. The court held that the plaintiff was not entitled to the relief he requested.

In order to state a claim for relief under 42 U.S.C. 1983, it is necessary to show that the defendants, acting under color of law, deprived the plaintiff of a constitutional right. The court held that the evidence did not support this claim.

The plaintiff alleged that the hospital was operated under the direction of the Medical Staff and the Executive Committee, and that these bodies were acting under color of law. However, the court held that the evidence did not support this claim.
fore, Dr. Watkins has not stated a claim for relief upon which relief can be granted, Olmstead v. Price, 457 F. 2d 1037 (9th Cir. 1972).

However, despite supporting a finding that defendants were not acting under color of state law, the court was not convinced that the defendants had not caused Dr. Watkins to adopt their religious beliefs, for he is free to believe that sterilization services should be offered and performed, but he is not free to believe that abortion services should not be performed and the right to prohibit the use of its facilities for such procedures.

By similar analysis, Dr. Watkins’ general constitutional claim that defendants have violated his religious freedom rights is without merit. It is unquestioned that the prohibition against the performance of abortions by the hospital is a valid exercise of the free exercise of religion which is wholly applicable to the states through the Fourteenth Amendment.

Congress has taken the position that the fact a hospital receives Hill-Burton funds does not authorize a finding that the hospital acts under color of state law as a basis for requiring it to make its facilities available for the performance of sterilization procedures or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions respecting sterilization procedures or abortions.” P.L. 93-45; 87 Stat. 687.

Section-by-Section Analysis

“Section (c).” The legislation is aimed at protecting the religious rights of the hospital. It is, therefore, ordered that the plaintiff take nothing by his complaint against the defendants. No costs are allowed.

The Findings of Fact and Conclusions of Law

The Presiding Officer. Mr. Mr. Church, Mr. President, this amendment is designed to accomplish two objectives. First, it would increase the Medicare lifetime reserve from 60 to 120 days.

Under present law, Medicare pays for all covered services, except for the initial $72 which is charged to the patient. From the 61st through the 90th day, the Medicare beneficiary has a 20% coinsurance charge. To reach the two objectives, the daily rate of co-insurance, which currently stands at $36 for individuals who are covered under Medicare, would be increased to $42. For 1974, this amount is scheduled to increase to $51.

It is my understanding that the June 30th amendment is adopted, the daily co-insurance rate would be reduced to $21.

My amendment is based upon the recommendations of the highly respected Medicare Council on Security. Under present law, Medicare pays for up to 90 days of hospitalization during each benefit period. For the first 60 days, the Medicare beneficiary pays 20% of the customary charge. For the remaining 30 days, the Medicare beneficiary pays 50% of the customary charge.
ble. At present, this amounts to $18 per day.

In addition, there is a 60-day lifetime reserve for individuals who require more than 90 days of hospitalization in a particular benefit period. As I indicated earlier, the coinsurance amount is equivalent to one-half of the part A deductible.

These measures undoubtedly will provide some means of reducing the 5.6 million Medicare beneficiaries who are expected to be hospitalized in 1974. But I strongly believe that further improvements are essential to guard against the ruinous cost of an illness requiring prolonged institutionalization.

To my way of thinking, the aged and disabled—as well as their families—deserve strengthened protection against these potentially catastrophic expenditures, which can in a matter of weeks or months obliterate a lifetime of savings, hard work, and diligence.

In all fairness, the illness strikes with far greater frequency and severity at a time in life when those affected can least afford it.

This is especially true in the case of hospitalization. As of 1972 there were nearly 12 million Medicare beneficiaries who had been hospitalized since the program began. More than 130,000 of these individuals are left facing a portion of their lifetime reserve after exhausting the 90 days of covered care regularly available during a benefit period. Of this total, 25,000—or 19 percent—exhausted their lifetime reserve.

These individuals, it should be pointed out, have typically incurred several thousand dollars in hospital bills, much of which has been paid from their own resources. The harsh reality is that the threat of bankruptcy by hospitalization is all too real for aged and disabled Americans confronted with lengthy institutionalization. And all too often, these are the individuals who can least afford it.

But my amendment would provide a constructive means for improving Medicare coverage for these persons. First, it would eliminate the daily coinsurance charge from one-half to one-fourth of the hospitalization deductible.

In conference committee, all three provisions were eliminated.

So, in one form or another, either the Senate or the House has put its stamp of approval on the provisions of this amendment.

Today many Americans believe that Medicare pays for almost all of the hospital and medical bills of the aged and disabled. They should know better.

In fact, Medicare covers only about 42 percent of their health care expenditures. Major gaps in coverage still exist, and must be closed.

Quite clearly, economic insecurity in retirement can never be fully attained until we come to grips with some of the costly drains upon their limited incomes, such as the high and potentially ruinous cost of hospitalization for extended periods.

Mr. President, I urge adoption of my amendment.

In this connection, I ask that, in addition to the names of Senators Clark, Williams, McGovern, Abourezk, Ribicoff, Hart, McGee, Humphrey, Moss, Bayh, and Pell, Senators Metcalf, Turner, and J. B. Hammond be added as cosponsors of this amendment.

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

Mr. NELSON. Mr. President, one-half of the proposal just made by the Senator from Idaho was passed last year. The House conference, as the Senator may recall, reduced it.

I think it is a meritorious proposal, although I understand it will cost about $75 million, but I am prepared to accept the amendment.

Mr. CHURCH. I thank the Senator very much. I just point out that though the cost would be approximately $75 million, it is also true that the present hospital insurance trust fund is sufficiently large to accommodate the increased costs without any addition to the tax. That is still another good reason for moving this bill.

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

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I call up my amendment No. 727 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of part H of title 5 of the bill, insert the following new section:

SECT. 1. (a) Section 1861(a) (2) of the Social Security Act is amended to read as follows:

(2) ending with the close of—

"(A) the first period of sixty consecutive days thereafter on each of which he is neither (1) a patient in a hospital, nor (2) an inmate of a skilled nursing facility, or

"(B) in the case such individual meets the condition imposed by subparagraph (A) (1) but does not meet the condition imposed by subparagraph (A) (2), the first period of one hundred and eighty consecutive days thereafter on each of which—"

"(1) he is an inmate of a skilled nursing facility,

"(2) he receives (I) skilled nursing care and related services (as described in subsection (J) (1) (A)), or (II) rehabilitation services (as described in subsection (J) (1) (B)), and

"(II) such facility is not receiving payment for skilled nursing services provided to the individual as part of a State plan approved under title XIX."

(b) The amendments made by this section shall be applicable in the case of determinations under title XVIII of the Social Security Act, with respect to the ending of any spell of illness, made after the date of enactment of this Act; except that no spell of illness shall, by reason of such amendments, be determined to have ended prior to the date of enactment of this Act.

Mr. EAGLETON. Mr. President, this amendment is designed to enable elderly persons residing in nursing homes to break the Medicare "spell of illness" or benefit period and renew their eligibility for hospital insurance coverage.

Under the part A hospital insurance program, limited hospital, extended care, and home health benefits are available during a single "spell of illness." When Medicare benefits are exhausted, additional benefits are available until there is a new benefit period. The "spell of illness" concept springs from the basic intent of Medicare to provide protection against health care costs associated with relatively short-term acute illnesses.

Under current law, a benefit period is ended with the close of the first period of sixty consecutive days after which the individual "is neither an inmate of a hospital nor an inmate of a skilled nursing facility."

For purposes of this section of the law, a skilled nursing facility is defined as an institution which "is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing services for a period of at least 90 days, in which the individual "is neither an inmate of a hospital nor an inmate of a skilled nursing facility."

The result of the law is that a person who resides in a skilled nursing facility, even though he does not qualify as a resident of a institution lower than skilled nursing, is unable to break a benefit period.

The situation was summarized very succinctly in a letter to me of April 20, 1972, from then Commissioner of Social Security Ball:

Once a person has used up his benefit days, he cannot begin a new benefit period until he has been an inmate of any hospital or any institution that is primarily engaged in providing skilled nursing care for 60 consecutive days—whether or not the institution is participating in the Medicare program and regardless of the level of care he is receiving.

As we all know, many elderly people must spend their last years in a nursing home, not because they require skilled nursing care, but simply because they are no longer able to care for themselves in their own homes and a nursing home is the only available alternative. For these people the nursing home is not a medical institution but a substitute home.

Yet if the institution in which they
reside is determined to be a skilled nursing facility, they are denied the medicare benefits. It is fortunate enough to be able to remain in their own homes.

When this matter came to the attention of the Congress in 1967, it was thought that the use of the hospital deductible for one year is not enacted into law, that copayment will rise to $42 per day in 1974.

Second, even though lifetime reserve days may be exhausted. In the last year, at least two instances have come to my attention of nursing home residents who have used both the hospital care available during a single benefit period and the 60 lifetime reserve days. These people, who will be confined to nursing homes for the remainder of their days, will have used both the Hospital Insurance benefits under medicare.

It is my understanding that the law is written as it is because there is concern that if a benefit period could be broken in the case of a nursing home resident by a 90-day period during which he or she was certified as receiving a level of care lower than skilled nursing the result would be that the 60 days of skilled care back and forth between levels of care for the purpose of qualifying them for additional medicare benefits.

Whether or not this could or would happen, I do not know. But I believe the answer is not to deny all nursing home residents the opportunity to renew their eligibility for hospital insurance benefits but to determine whether a person is actually receiving long-term personal or custodial care as opposed to skilled nursing care.

Therefore, my amendment provides that a person residing in a skilled nursing facility may end a spell of illness with the close of the first period of 180 consecutive days on which he was receiving skilled nursing care or rehabilitation services and the nursing home was not receiving payment for skilled nursing services provided him under the State's medicaid program.

My amendment, I want to make clear, is not designed to provide medicare coverage for long-term custodial care. Under current law reimbursement for such care is specifically excluded.

My amendment is designed simply to enable persons who require personal or custodial care to have the same medicare benefits that are available to others.

I urge the adoption of this amendment.

Mr. NELSON, Mr. President, I do not have any objection to the amendment. The object is sound. I am prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 727 of the Senator from Missouri. The amendment was agreed to.

AMENDMENT NO. 722 AS MODIFIED

Mr. EAGLETON. Mr. President, I call up an additional amendment No. 722, and ask that it be printed in the bill.

The PRESIDING OFFICER. The amendment (No. 722) of the Senator from Missouri will be stated.

The legislative clerk read as follows:

At the end of part C of title I of the bill, insert the following new section:

DISREGARD, UNDER MANDATORY MINIMUM STATE SUPPLEMENTATION OF SOCIAL SECURITY INCOME BENEFITS, OF SOCIAL SECURITY INSURANCE INCREASES AND OF OLD-AGE SURVIVORS, AND DISABILITY INSURANCE INCREASES.

Sec. 128. For purposes of determining, under section 212(a)(3)(C) of Public Law 93-66, the amount of any income of any individual for any month referred to in such section, there shall be disregarded—

(1) in the case of any individual, so much of any supplemental security income benefit payable under title XVI of the Social Security Act to such individual for such month as is attributable to any increase in supplemental security benefits resulting from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title), and

(2) in the case of any individual who is entitled to annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1973 which results from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title).

Mr. EAGLETON. Mr. President, I ask unanimous consent that the amendment be modified to read as follows:

At the end of part C of title I of the bill, insert the following new section:

DISREGARD, UNDER MANDATORY MINIMUM STATE SUPPLEMENTATION OF SSI BENEFITS PROGRAM, OF SUPPLEMENTAL SECURITY INCOME INCREASES AND OF OLD-AGE SURVIVORS, AND DISABILITY INSURANCE INCREASES.

Sec. 128. For purposes of determining, under section 212(a)(3)(C) of Public Law 93-66, the amount of any income of any individual for any month referred to in such section, there shall be disregarded—

(1) in the case of any individual, so much of any supplemental security income benefit payable under title XVI of the Social Security Act to such individual for such month as is attributable to any increase in supplemental security benefits resulting from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title), and

(2) in the case of any individual who is entitled to annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1973 which results from the enactment of section 201 of Public Law 93-66 (or any provision contained in the preceding provisions of this title).

Mr. EAGLETON. Mr. President, I ask unanimous consent in addition to the original cosponsors as listed on the amendment, Senators Ribicoff, Mathews, Brooke, Stevens, Cranston, and Humphrey be added as cosponsors of this amendment.

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

Mr. EAGLETON. Mr. President, the purpose of this amendment is to ensure that those aged, blind, and disabled persons who will be receiving mandatory State supplementary payments under the supplemental security income program will receive the cost-of-living increases proposed in this bill without having those increases deducted from their State supplementary payments.

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Mr. EAGLETON. As this table indicates, some persons in every State and the District of Columbia will be receiving mandatory State supplementary payments. Naturally, this number locally is larger in some States than in others because of the proportion of aged, blind, and disabled recipients affected. I believe that in many States this will result in an automatic savings of several million dollars in State funds.

I also want to emphasize the fact that we are not proposing something unprecedented. In the past, we have often provided for the “pass-thru” of at least some part of a social security increase to persons on State public assistance rolls.

In fact, H.R. 9383 provides for a “pass-thru” to recipients of aid to families with dependent children—AFDC—by requiring the States to disregard 5 percent of social security income effective with the month in which the social security income is received.

My amendment simply provides, through a different mechanism, a “pass-thru” for persons currently receiving old age assistance, aid to the blind, and aid to the permanently and totally disabled.

Mr. President, we are now taking the unusual step of reconsidering our previous decision on a social security increase later this year. We have been moved, by evidence of the severe impact of inflation on the elderly and the disabled, to provide a larger and earlier increase than we had originally planned.

We have the authority, and I believe we have the responsibility, to guarantee that 85,000 people in my State and 1.7 million people nationwide are not denied this cost-of-living increase in 1974. I urge the adoption of this amendment.

Mr. JAVITS. Mr. President, will the Senate yield for a question?

Mr. EAGLETON. I yield.

Mr. JAVITS. Mr. President, the Senator’s amendment has not been available to me and I do not think it has been available to anybody else on the bench until he sent it to the desk as modified. I am not trying to impede him on that score. We will get it promptly. But I believe that we understand it, and I should like to ask the Senator this question: with respect to New York and 9 other States—all together—of the so-called high benefit level States: Is it true that, though the payments in high benefit States would be added on to the high payment States, the Eagle ton amendment would not give us the Fed-
eral money with which to do it? It would just make my State pay money, even though I do not think it is necessary, in order to meet that benefit level.

Mr. EAGLETON. That is the case under my amendment with respect to nine States, including New York and California.

Mr. JAVITS. I ask the Senator whether it would not be fairer to let his amendment wait on the amendment of Senator Cranston, because I understand he wishes to correct that inequity, which was an inequity inflicted upon us on the floor of the House, rather than make many of us who would favor the Eagleton amendment vote against it because it is simply unfair to our States. It makes us pay money, without giving us any Federal support for it. Hence, at least in my judgment, we should have the option not to pay it if we do not feel we should, without Federal reimbursement.

Mr. EAGLETON. The Senator makes a good point.

My amendment creates no problem in 41 States. The Senator from New York has pointed out the problem it creates in nine other States.

I appreciate that the proposal suggested by the Senator from New York, which I am sure the Senator from California intends to pursue, would still be in order, and I would support it.

But I am hopeful that even if the Cranston amendment does not float, my amendment will.

Mr. JAVITS. I appreciate the Senator's situation. But is it not true that from a practical voting standpoint the Senator might find he might lose something he ought to win?

Mr. EAGLETON. I did not assume the Senator from New York would vote against my amendment since it does not preclude going further with the concept espoused by the Senator from California.

Mr. JAVITS. I realize that. Because it precedes the action on the Cranston amendment we have to pay out of the State treasury, no matter what happens to the Cranston amendment.

Mr. EAGLETON. If the Cranston amendment is offered as an amendment to the Eagleton amendment I will vote for it and we will see how that goes. If it goes as I hope we would not have to say anything more today.

Mr. CRANSTON. Mr. President, I would like to offer this amendment as an amendment to the Eagleton amendment. Mr. JAVITS. That is fine.

Mr. CRANSTON. Mr. President, I offer it as a perfecting amendment. The Senator from California is correct.

Mr. EAGLETON. First, let me propound a parliamentary inquiry. I think I know the answer.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAGLETON. If the perfecting amendment of the Senator from California is incorporated in my amendment and the perfecting amendment is rejected, from a parliamentary point of view would I be permitted to reoffer my original amendment as imperfect?

The PRESIDING OFFICER. Either amendment could be offered separately. Mr. EAGLETON. Did I state my question to the Chair in a clear way? Perhaps I did not. I wish to repeat my question. We have before us amendment No. 722. It is the amendment from California to offer a perfecting amendment to that amendment and I am about to accept it. If that total amendment is rejected, am I free, from a parliamentary point of view, to offer my original amendment, without the Cranston perfecting amendment?

The PRESIDING OFFICER. The Senator can offer his amendment. Mr. EAGLETON. The Senator offered a perfecting amendment and I am willing to accept that amendment to my amendment.

Mr. CRANSTON. Mr. President, have the years and nays been ordered?

Mr. EAGLETON. No; they have not.

The PRESIDING OFFICER. The Senator from Missouri has a right to modify his amendment. Is that what the Senator is doing?

Mr. EAGLETON. Mr. President, I will send to the desk a modification of my amendment as suggested by the Senator from California (Mr. Cranston) and others.

The PRESIDING OFFICER. The amendment will be so modified. The modification is as follows:

LIMITATION ON FISCAL LIABILITY OF STATES FOR OPTIONAL STATE SUPPLEMENTATION OF SSI BENEFITS

Sec. -- Section 401 (b) (1) of the Social Security Amendments of 1972 is amended -- (a) by striking out "and" at the end of clause (A)

(b) by striking out the period at the end of clause (B) and inserting in lieu thereof 

(c) by adding immediately after clause (B) the following new clause:

"(C) In the case of any month, the amount by which supplemental security income benefits of the type involved are increased by section 210 of Public Law 93-66, as amended by section 121 of the Social Security Amendments of 1972, shall be included in determining the Federal payment level-which is the case in the nine States that my amendment covers.

Mr. CRANSTON. Well, they pay the entire check according to the schedule set forth in the Federal statute, but because we would mean a reduction in payment to some individuals, the Federal Government has demanded as a quid pro quo for taking over the whole load that the States make a mandatory supplemental payment so that no one gets less than they got this year. Is that correct?

Mr. CRANSTON. Yes; that is the intent.

Mr. CURTIS. Now, as a matter of fact, the nine States the Senator is talking about are still coming off better than they were before the SSI program was enacted. Is that correct?

Mr. CRANSTON. No; that is not true.

Mr. CURTIS. Well, I think it is.

Mr. CRANSTON. The responsibility of the States and the numbers of recipients under the new program will extend beyond what is now covered, and that responsibility to meet that situation—for a number of reasons—will fall upon the States rather than the Federal Government.

Mr. CURTIS. I am afraid my question was misunderstood. At the present time those States are paying certain supplemental payments to the blind, disabled, and aged, and they are going to be relieved of that. Is that correct?

Mr. CRANSTON. In part, but not wholly.

Mr. CURTIS. The part they are relieved of will end up spending less money for these three programs than they are spending now.

Mr. CRANSTON. The Federal Government is mandating an increase in the number of people covered, it has not extended hold harmless to cover benefit increases since 1972, and yet it has mandated that the States, in supplementing SSI, do so up to December 1973 levels—no; in many States we will not be spending less.

Mr. CURTIS. I am talking about the whole expenditure, not just the mandated part; the total expenditures made for these programs by the State of California will be less than it is now.

Mr. CRANSTON. That is not true because the Federal Government is mandating who is eligible. There is a vast expansion of adult recipient eligibility;
Mr. CURTIS. I do not believe that is a correct statement of the situation. What is happening at the present time is that every check that people in these three categories get is part State money and part Federal money; and up to the limit of the Federal new program it is all Federal and even though you do have to make a supplement, I think you are coming out ahead.

Mr. CRANSTON. Mr. President, what we are fighting about is whether the new Federal money. Now, even though you are coming out ahead. The provision which provides that the new supplemental security income program will be paid 100 percent of the cost for the aged, blind, and disabled—originally scheduled to be $130 for an individual and $195 for a couple—be increased to $140 for an individual and $210 for a couple when the program is fully implemented. As the distinguished chairman of the Senate Ways and Means Committee is aware, the committee included a further provision which, beginning July 1974, would increase the guaranteed income level to $146 for an individual and $218 for a couple.

This committee provision, which I very strongly support, is an attempt by the committee to reflect for SSI recipients the increases which are contained in H.R. 3515 for social security recipients. However, as the committee bill is now constituted, in some nine States—California, New York, New Jersey, Wisconsin, Massachusetts, Nevada, Hawaii, Michigan, and possibly Rhode Island—SSI recipients will not receive the benefit of this increase because there is no provision to “pass-along” increases without creating significant extra costs to the affected States.

Very simply put, the amendment I propose would provide that these nine States be held-harmless for these SSI increases along with recipients in those States.

The House Ways and Means Committee did include such a provision, though only effective for 1 year, but it was deleted from the House bill during extensive and rather confusing floor debate.

As the distinguished chairman of the Finance Committee so well knows, this entire bill is completely complex, and I will try, for the benefit of my colleagues to put it as simply as possible.

The key issue during the debate surrounding the Federal Supplemental Security Amendments of 1972—H.R. 1 in the last Congress—was the conceptual and practical difficulty of reconciling the wide disparities of 50 State welfare programs into one single national program. We all felt at the time, I believe, that while solidifying 50 distinct adult welfare programs into one equitable and uniform bill was going to be almost impossible, it was time to take the first big step forward.

Nearly everyone agreed that a national “minimum income floor” was needed in lieu of the varying percentage matching arrangements already in existence. The primary question was how to establish such a floor without hurting recipients who were receiving more than that income floor—such as in the nine States I mentioned above. This then led to the related issue of Federal fiscal responsibility for such recipients once the States were “out of the picture”—that is, responsibility for setting eligibility requirements, Federal-State cost sharing, and administration of the new program.

The hold harmless provision added by H.R. 1 then became the vehicle for reconciling all of these issues. Hold harmless was clearly a key provision of the legislation, without which there would very likely be no SSI program today.

It was never intended that the hold harmless provision would be a means of freezing payment increases by the Federal Government for those recipients in those States who, in good faith, supported H.R. 1. Rather, hold harmless was, as I understood it, designed to provide States with processional cost increases which were expected to be incurred in the newly Federalized program because of the expanded Federal eligibility. Hold harmless also was to serve as an incentive for States to turn over their programs to the Federal Government for administration not only of the Federal floor but also the State supplementation under the new legislation.

I should add here, parenthetically, that my own State, because of certain legal difficulties, will not be able to turn State supplementation over to the Federal Government until sometime this January after legislative action. At any rate, the incentive for this turn-over was, of course, the Federal Government’s fiscal responsibility under the present “hold harmless” provision to underwrite future increased caseload costs that were incurred as the result of the new Federal program.

The bill before us today, without the House Ways and Means Committee provision, changes the rules of the game. The whole question of the Federal-State relationship is of concern to the responsibility for recipients in the future.

If the nine States effected are simply to be told that they may spend State money to increase SSI payments—and if the Eagleton amendment is adopted, they will have to spend it—then the overall uniformity and equity purpose of SSI as a national program will have been subverted.

What will occur is that a federally funded cost-of-living increase for SSI recipients will be approved—in all but nine States, nine States in which something like 40 percent of the SSI population resides.

Mr. President, I do not believe that 40 percent is a parochial, “my State” issue. What I am talking about is the States which in the past have made the greatest fiscal effort on behalf of the poor, there will be no 100 percent federally financed cost-of-living increase.

I would most strongly urge my colleagues to join in supporting this amendment I am now offering as a perfecting amendment to the pending amendment No. 722. It is, I believe, absolutely essential if we are to insure that the SSI program stays in the concept which it was originally conceived to reflect.

Mr. LONG. Mr. President.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. EAGLETON. Mr. President, I believe I have the floor. I yielded to the Senator from California with the right to continue the floor.

Mr. LONG. Mr. President, I demand the regular order.

The PRESIDING OFFICER. The regular order is demanded.

Mr. LONG. I would like to say something about the amendment.

Mr. EAGLETON. I yield the floor.

Mr. LONG. Mr. President, here is what Mrs. GRIFFITHS said about a similar amendment on the House side:

"... would allow California to raise its payments above $394--from 100 percent of the poverty line to $409 a month. It will allow Massachusetts to go from 112 percent of the poverty line to 355.50--Wisconsin from $390--about 147 percent of the poverty line to $394.51--about 132 percent of the poverty line--$399.51."

Mr. President, mind you, this amendment would permit the States of New York, California, Wisconsin, New Jersey, Michigan and Massachusetts, all relatively wealthy States, to raise the amount of money their people would get far beyond what the rest of us would get and leave all of us poor States out.

Ohio would not get anything. All it would get is the privilege of helping pay for all this. This is strictly on the principle of "The rich get richer and the poor get poorer." For years I have tried to understand the biblical injunction.

To him who has, it shall be given, and to him who has not, it shall be taken away.

That is the logic of the amendment, inasmuch as it provides that those that have so much more ought to get still more. Others will pay for it but will not share in any of the benefits.

Anyone who wants to vote for that, go ahead, but I challenge you to explain to your constituents why you are such a complete sap or why you think these other States ought to get more than yours merely because they have more money to begin with.

If I say to those Senators, if they cannot find some way to modify the amendment so that those in the poorer States can get in on the act, then obviously it has not been adequately considered. I am anxious to see others will pay for it but will not share in any of the benefits.

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Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. JAVITS. Does the Senator include in his amendment something which violates the Senate rules when he says a Senator who would be voting for this amendment would be taking a sap, but, be that as it may, we are not children; nobody is going to call the Senator for that violation—does the Senator include the House Ways and Means Committee, bearing in mind that the House Ways and Means Committee included that in its report?

Mrs. GRIFFITTS, of the House, changed her position? Do I understand the Senator includes in his indictment the House Ways and Means Committee or was it reserved exclusively for Senators?

Mr. LONG. Do not have me say something I did not say. Going down this list of States, California, Michigan, Wisconsin, New Jersey, Massachusetts, and others—they have more Representatives than Senators. They may have put this in a bill in the House Ways and Means Committee, but when it goes on the House floor they still did not have a majority. That is why they voted it down.

I am not accusing anybody of being a sap. But I wonder if there is one on the House floor they still did not have a majority. Mr. President, will the Senator hold his motion at this time?

Mr. LONG. I yield.

Mr. JAVITS. Mr. President, will the Senator withdraw his motion at this time?

Mr. LONG. I withdraw my motion.

Mr. President, before we table this amendment, I would like to table it, I think it ought to be understood; and with all respect, I do not think it is understood.

I support the amendment offered by the Senator from California. I support it in the interest of my own State. With 18 1/2 million people in New York and 20 million in California, we do not have to apologize for belonging to the United States.

I must say that there rings in my ears a strange note from another day to hear the fact that because only nine States have proceeded in a manner to cut the Federal Government is going to pay for it. We should not operate in that way. All of us are involved.

It is precisely for that reason that we ought to be fair. We have the intelligence to see that if somebody else has been wanting to adhere to a standard, which is a decent standard, as far as their people are concerned, we are not going to be unfair to them when it comes to increasing benefits all along the line. We are not going to deny it to them because their States have proceeded in a better way.

That is what it comes down to. I have very grave doubts as to whether New York State can scratch up $48 million for this. We are in lots of trouble in my State, and many other States in the list are in essentially the same position. I believe that the Senator ought to understand the facts before it votes.

I appreciate very much the Senator from Louisiana (Mr. Long) affording me the courtesy of allowing me to express my views, because the Senator could have cut us off.

Mr. CRANSTON. Mr. President, will you yield?

Mr. JAVITS. I yield.

Mr. CRANSTON. Mr. President, is it not true that while we may be talking about nine States, I believe that we are talking about something like 40 percent of the welfare recipients, since they live in these nine States. It is a far broader thing than to say simply that nine States are involved.

Mr. JAVITS. And, while I have not said it, I have little doubt that the inhabitants of the nine States, between them, pay at least half of the income taxes in the United States.

I am aware that we cannot get parochial about this matter. New York is the seat of the stock exchange. California is the seat of many industries, and so forth. We are all interconnected. That is why we should understand the other fellow's problems, and we should not try to act any other way.

Every once in a while on an issue a Senator will get up and say, "You can't win, because nine States are involved." Suppose we say that about every issue on the calendar. Suppose that we say, "You are only one man. You cannot win."

We should not operate in that way. All of us are trying to do is to have our States receive what they should receive.
Mr. MANSFIELD. Mr. President, will the Senator yield to me?

Mr. EAGLETON. I yield to the Senator from Montana.

Mr. PASTORE. May we have order now, Mr. President?

Mr. MANSFIELD. Mr. President, what I would like at this time is to get an idea as to how many more amendments will be necessary in order to get to the pending legislation.

First, I understand that the distinguished Senator from New York (Mr. JAVITS) will have an amendment on which I intend to suggest to the Senate that there be a time limitation of 1 hour, to be equally divided, subscribed to. Then the Senator from Missouri (Mr. Eagleton) has an amendment now pending—

Mr. MANSFIELD. I ask unanimous consent. Mr. President, on that amendment, that there be a time limitation of 15 minutes, to be equally divided between the sponsor of the amendment and the manager of the bill.

Mr. PASTORE. The Senator from Rhode Island.

Mr. MANSFIELD. The Senator from Rhode Island. Well, anyway, there are many of them. Then the Senator from Alabama.

Mr. ALLEN. Mr. President, if the distinguished majority leader will yield briefly, the amendment of the Senator from Alabama is unique. It would take something away from the bill rather than add more to it. I should like to make that clear. (Laughter.)

Mr. MANSFIELD. Then, Mr. President, I ask unanimous consent that when the amendment of the Senator from New York (Mr. JAVITS) is called up, there be a time limitation of 1 hour with the Senator from Montana (Mr. PASTORE), the Senator from New York (Mr. JAVITS) and the Senator from Louisiana (Mr. LORO), the manager of the bill.

Mr. JAVITS. Mr. President, reserving the right to object—and I hope not to object—I have one or two stipulations to make in that regard. One is that I wish to understand that a motion will not be made, at least by anyone here—we cannot control others—to table the amendment. I said I would agree to a 1-hour limitation if I felt there was going to be no motion to table, so that Senators would not be buying a pig in a poke.

This is an effort to deal with the unemployment compensation trigger which has been made much more expensive by the one opportunity we have to deal with a bill which originates with the Finance Committee and then goes to the Ways and Means Committee in the other body.

Mr. LONG. Mr. President, I am not planning on a motion to table, but I do not want to agree to that, as I do not want to start that kind of precedent. If we can agree to a limited time, when

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

Mr. EAGLETON. I yield to the Senator from Montana.
the time for debate is over, Senators can do whatever they want to. The Sen- 
ator from New York can talk as long as he wants to on his amendment. At the 
moment, I am not saying that I will make a motion to table, but I do not 
like to start that kind of precedent on unanimous-consent agreements.

Mr. JAVITS. I can appreciate that. In 
view of the fact that I agreed to a unani-
mous-consent request on that ground, I 
object.

The PRESIDING OFFICER. Objec-
tion is heard.

Mr. MANSFIELD. Mr. President, I realize 
that the attempt here is to help the 
elderly of our country. We are talking 
here, but I question whether, in the con-
ference, any one of them will survive.

I am wondering whether, therefore, in-
stead of trying to do justice, we are not doing 
justice to some of the other issues that 
many issues raised here today have 
been raised before. We have taken votes 
on them. I am perfectly willing to stay 
here until midnight, or all night, if we 
have to, but I think by 8 o'clock tonight 
I believe we should stay here all night 
and finish this bill.

I should like to inquire of the distin-
guished majority leader, how long are 
we going to stay here tonight, so that 
we can call up our families to turn the 
oven jet on or forget it.

Mr. MANSFIELD. Well, I would say— 
a jet? Where is the Senator going to 
get the fuel?

Mr. PASTORE. Well, for the time be-
ing, it is there. [Laughter.] Later on, ac-
cording to Senator Jackson, it may not 
be there, but the fact is, United will be 
there.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, first, 
I ask unanimous consent that, when the 
Senate completes its business tonight, it 
stand in adjournment until 10:30 a.m. 
tomorrow.

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

(Later this order was changed to pro-
vide for the Senate to convene at 10 
a.m.)

AMENDMENT OF THE SOCIAL 
SECURITY ACT

The Senate continued with the con-
sideration of the bill (H.R. 3153) to
make certain technical and confor-
mizing changes.

Mr. MANSFIELD. Mr. President, I 
suggest to the Senate that when we 
 dispose of the Eagleton amendment 
we call it a night, go home, and have 
dinner with our families.

Mr. PASTORE. I want to thank the dis-
tinguished majority leader. [Laughter.

Mr. EAGLETON. Mr. President, this 
amendment has a 15-minute time limita-
tion on it. It is not my intention to 
consume the 9½ minutes allotted to me.

This amendment is the Eagleton 
amendment once again, but this time not 
perfected by the Senators from Cali-
ifornia and New York.

This amendment is in its pristine, origi-
nal language, and in the words of the Sen-
ator from Alabama a few moments ago, 
this amendment is also unique. It does 
not add 10 cents of Federal money to 
the bill. It does not cost the U.S. Treasury 
one cent. And even in the 4 percent in-
crease, the Eagleton amendment pro-
vides that the States cannot cut back 
their payments so as to absorb the in-
crease which we have decided as a matter 
of national policy are vitally neces-
sary.

What this amendment prevents is a 
windfall profit to State treasuries so that 
the case it is the U.S. Congress—the 50 
State Capitols do not take it away. That 
is about all this amendment does. It says 
that the benefits we think are just and to 
the disabled and the aged entitled shall go forward, and that the 
States shall not sabotage the benefits by 
a pro rata cut in benefits at the State 
level, so that the individual is no better 
off tomorrow than he is today.

Mr. President, I reserve the remain-
der of my time.

Mr. PASTORE. Mr. President, I ask for the yeas and 
nay vote on this amendment.
The yeas and nays were ordered.

Mr. LONG. Mr. President, this amend-
ment works in exactly the opposite di-
rection to that in which the committee 
sought to move. The amendment is on 
the wrong basis. In the first place, it 
would treat those already on the rolls in 
December 1973 more favorably than those 
who are newly eligible. There is 
nothing to judge whether the rolls on 
the rolls should be better off than those 
who later on come onto the rolls.

This amendment would also penalize 
the States which have been generous in 
the past, that is, the States which have 
adequately paid for the aged, blind, and 
disabled, by making them spend ad-
ditional funds over and above present 
benefits, while the States which 
have had low assistance payments are 
not so penalized and, in fact, would 
probably be relieved of most of their 
current costs.

Moreover, this amendment would be 
contrary to the basic concept of the SSI 
payment. In Federal Government 
establishes a nationally uniform 
minimum income level for the aged, 
blind, and disabled, which is fully Fed-
eral funds. It is, therefore, the State 
should only be required to add funds to 
supplement the level as they see 
fit, and with fully State funds.

In other words, Mr. President, as 
the bill states, the committee fully antici-
pates that in January, when the SSI pro-
gram goes into effect with a Federal 
funding program, the States will have a 
windfall in almost every State in the 
Union unless those States want to use 
that money to advance the income of 
their aged people well beyond that which 
their aged people have had prior to this 
time.

I know that in the State of Louisiana, 
practically all the aged people, for ex-
ample, would receive a very large in-
crease in their payments. Thus the State 
of Louisiana, looking at that situation 
could say, "We expect to save about $30 
million here. That $30 million can best 
be spent to help the little children, be-
cause we feel that there is so little com-
pared with the very generous benefits 
we would now be paying to our aged. We 
would think it would be better to double that 
$30 million and put it in the program for 
the aged, rather than putting it in the 
program for the little children, where 
there is more need." So Louisiana would 
put its money into helping the children. 
If it did not, its second priority would be 
the health program.

The Eagleton amendment would 
require that there be a windfall, we might 
say, for the aged. So even though the 
State did not think it was a good idea 
to continue to supplement to the same 
extent that it had supplemented before 
the little children, yet, because of the 
number of people already on the rolls, it 
would have to do so.

In effect, it would compel us, and 
would compel the States, to spend the 
money in the way they do not think is 
wise, in the way that, frankly, we on the 
committee do not think is wise.

That being the case, we think this is 
not a wise amendment, and it is a 
windfall. It is a discriminatory wind-
fall, because it would discriminate in favor 
of those who are presently on the rolls and 
against the great number of people—In 
most States, an equal number of peo-
ple—who will be added to the rolls. Their 
needs should be considered on the same 
basis. But this amendment would com-
pel you to consider those already on the 
rolls in a far more favorable fashion than 
the others.

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

Mr. LONG. I yield.

Mr. CHILES. Does the Senator believe 
it would be discriminatory to the blind, 
to the aged, to the disabled?

Mr. LONG. What we are talking about 
is this: Let us say that at a level of $200, 
the State is paying $100 in State funds 
for a blind person or for an aged person. 
We come in with the new Federal pro-
gram and say we are going to guaran-
tee that person under the SSI, a monthly 
income of $130. This bill now makes it 
go up to $140. So we are going to guaran-
tee $140 in Federal funds and the State 
will be required to keep him at his previous level of $200.

In addition to all that, this amendment 
would require the State to add $10 on top 
of that, to make it $210. But this would 
apply only to the rolls that are on the rolls. 
Under the amendment, new people com-
ing onto the SSI rolls could be left at the 
$200 level or even less. The changes made 
by this amendment would add many 
people eligible. So in most States, in-
cluding my own, which is a very generous 
State, it would just about double the 
number of people on the rolls. Their 
needs should be considered on the same  

basis as all the other people on the rolls. So as between two old people, they should be considered on the same basis. Mr. CHILES. Has the senator seen how a blind person lives on $210 a month? Mr. LONG. I am talking about the point that we should not discriminate between two blind people.

Mr. CHILES. Is the Senator talking about one blind person who has outside income and plenty of funds but still, because he is blind, is getting some help, and another blind person who has no money with no assets, no help, getting a little pittance from the State, a few dollars from the State, and is the Senator saying that he has to give that money back to the State? I have been in one of those State legislatures where they took the money back from them every time, and I say it is ridiculous to say that.

Mr. LONG. I think the Senator understands what the committee did.

Mr. CHILES. I understand how a blind person lives on $210 a month, and they cannot do it today. To say that they are being helped, and against which, that something is being taken away from them is ridiculous.

Mr. LONG. We are talking about a situation in which the State is paying $200 now to a blind person. When the new SSI program goes into effect with a Federal payment of $140, the State may want to add $60 so that that blind person will get $260. And the State would provide the same $200 for a man who does not become blind until after the new SSI program goes into effect. So both blind persons would get the same level of income. Under this amendment would mean that the State must pay $210 to the person already on the rolls who is now getting $200 while the other man would only get the $200. The needs of the two people who are blind would not be considered on the same basis. The people who are newly made eligible would be discriminated against.

The PRESIDING OFFICER. The time available to the Senator from Louisiana has expired. Three minutes remain to the Senator from Missouri.

Mr. LONG. Mr. President, I have listened with great interest to the Senator from Louisiana, who is an expert in these matters, as well as to his exchange with the Senator from Florida; and I am mystified as to whether we are discussing the same amendment.

Let me make it crystal clear, Mr. President, that this bill will not cost the Federal Treasury a dime.

Mr. LONG. I yield if I have time.

Mr. EAGLETON. Mr. President, reserving the right to object—and I shall not object—I ask unanimous consent that the names of the following Senators be added as cosponsors of this amendment: Senators Risch, Senator Hart-Away, Senator Brock, Senator Stevens, Senator Cranston, Senator Humphrey, Senator Chiles, and Senator Pastore.

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

Without objection, 2 additional minutes are available to each side.

Mr. LONG. Mr. President, what this amendment provides is that if a person is on these rolls prior to December of 1973, then there will be disregarded the additional SSI benefits of $10 a month, and there will be disregarded the social security income that the person comes on the rolls at any time after that, which will include one-half of those on the rolls, that is, it is not disregarded, so one-half of the money is disregarded, and the other half are discriminated against. The States are denoted the right to look at their problems and say which of the poor should get the most help and which of the poor should get the least help. Those States are denied any discretion on how to help the poor with money otherwise available to them.

Mr. EAGLETON. Mr. President, will the President yield at that point?

Mr. LONG. I yield if I have time.

The PRESIDING OFFICER. The Senate has 1 minute remaining.

Mr. EAGLETON. Mr. President, I move to reconsider Senate Bill No. 533, and I would like to ask one question. Do we have any authority, we, the Congress, to require the States to pass through these increases with respect to new recipients?

The PRESIDING OFFICER. The amendment simply says that we mean it. We mean that the people who were to get that money will in fact get it; that Governor X, Governor Y, and Governor Z cannot say: "Uncle Sam voted those increases for the aged, the blind and the disabled. The Federal Government has given them the money, but we will take it away. We will cut the State's payment from what it was before, and then we will use that money for some other program in the State." As the Senator from Louisiana has said, it could be used for the children, or in some other State it might be used to refurbish a State race track, or to build a new sports coliseum-all this money that the Senate has provided.

By providing the benefit increases in this bill, we indicate that a No. 1 priority in the national policy, to provide cost-of-living increase next January and after the new recipients get that money will in fact get it; that Governor X, Governor Y, and Governor Z might find.

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

Without objection, 2 additional minutes are available to each side.

Mr. LONG. Mr. President, what this amendment provides is that if a person is on these rolls prior to December of 1973, then there will be disregarded the additional SSI benefits of $10 a month, and there will be disregarded the social security income that the person comes on the rolls at any time after that, which will include one-half of those on the rolls, that is, it is not disregarded, so one-half of the money is disregarded, and the other half are discriminated against. The States are denoted the right to look at their problems and say which of the poor should get the most help and which of the poor should get the least help. Those States are denied any discretion on how to help the poor with money otherwise available to them.

Mr. EAGLETON. Mr. President, will the President yield at that point?

Mr. LONG. I yield if I have time.

The PRESIDING OFFICER. The Senate has 1 minute remaining.

Mr. EAGLETON. Mr. President, I move to reconsider Senate Bill No. 533, and I would like to ask one question. Do we have any authority, we, the Congress, to require the States to pass through these increases with respect to new recipients?

The PRESIDING OFFICER. The amendment simply says that we mean it. We mean that the people who were to get that money will in fact get it; that Governor X, Governor Y, and Governor Z cannot say: "Uncle Sam voted those increases for the aged, the blind and the disabled. The Federal Government has given them the money, but we will take it away. We will cut the State’s payment from what it was before, and then we will use that money for some other program in the State." As the Senator from Louisiana has said, it could be used for the children, or in some other State it might be used to refurbish a State race track, or to build a new sports coliseum—all this money that the Senate has provided.

By providing the benefit increases in this bill, we indicate that a No. 1 priority in the national policy, to provide cost-of-living increase next January and to provide for that money that Governor X, Governor Y, and Governor Z might find.
If there is no objection, I would like to call up my amendment, No. 636, as modified, and ask to have the clerk read it.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read the amendment (No. 636), as modified.

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.

Amendment No. 636, as modified, is as follows:

At the end of title I, insert the following as (A):

(Section 216(1)(a) of such Act is amended to read as follows:)

(a) In the case of an individual who is blind (within the meaning of "blindness" as defined in section 216(1)(1)) and has not less than 6 quarters of coverage in any part of any period ending with the quarter in which he attains the age of 65, a quarter shall not be counted for purposes of clauses (i) and (11) of such section unless such quarter was a quarter of coverage for the month before the month in which he attains age 65; and

(b) Section 223(a)(1) of such Act is amended to read as follows:

(1) An individual shall be insured for disability insurance benefits in any month if

(A) he would have been a fully insured individual (as defined in section 214) had he been of working age during any part of any period ending with the quarter in which he would have attained (or if he attains) age 65; and

(B) he is blind (within the meaning of "blindness" as defined in section 216(1)(1)) and has not less than 6 quarters of coverage in any part of any period ending with the quarter in which he attains the age of 21; and

(c) Section 223(a)(2) of such Act is amended to read as follows:

(2) An individual shall be insured for disability insurance benefits in any month if

(A) he would have been a fully insured individual (as defined in section 214) had he been of working age during any part of any period ending with the quarter in which he would have attained (or if he attains) age 65; and

(B) he is blind (within the meaning of "blindness" as defined in section 216(1)(1)) and has not less than 6 quarters of coverage in any part of any period ending with the quarter in which he attains the age of 65.

Sec. 7. In the case of an insured individual who is under a disability as defined in section 216(1)(1) of the Social Security Act, who is entitled to monthly insurance benefits under section 223(a) or 223 of such Act for a month after the month in which this Act is enacted, and who applies for a recomputation of his disability insurance benefits or for a disability insurance benefit (if he is entitled under section 223(a) of such Act), the Secretary shall make a recomputation of such benefit if such recomputation results in a higher primary insurance amount.

(Sec. 8. The amendments made by sections 6 and 7 shall apply only with respect to monthly benefits payable under the Social Security Act for and after the second month following the month in which this Act is enacted.)

Mr. HARTKE. Mr. President, this amendment liberalizes the provisions of the Old-Age Disability Insurance law for blind persons.

On five separate occasions, the proposal has been approved by the Senate during the past dozen years. As an indication of the need for this measure, an article recently appeared in the New York Times for a blind person who has worked for a year and a half in social security covered work to qualify and draw disability benefits payments so long as he remains blind regardless of his earnings. The present law requires that a blind person have worked in covered employment in 20 of the last 40 quarters. That eligibility requirement fails to take into account the fact that a blind person finds it difficult to secure work of any kind, however employable he may be on the basis of talents and training.

My amendment ignores legal recognition to another hard fact confronted by the blind—they must always function without sight in a society structured for sight, and they must work in an economy organized by sighted people for sighted people. As a result, the blind person will need varying degrees of sight to assist him no matter what he does or how able he may be, and the only sure way to get this help is to be fully insured. In insurance payments to serve as a continuing source of funds to hire sighted assistance.

I ask your help, Mr. President, that this 93rd Congress will be known as the most important of all Congresses for blind Americans. It can achieve that distinction if we enact the disability Insurance for the blind that is long overdue. The blind person must thus be designated as insured for disability insurance payments to serve as a continuing source of funds to hire sighted assistance.

I ask in the hope, Mr. President, that this 93rd Congress will be known as the most important of all Congresses for blind Americans. It can achieve that distinction if we enact the disability Insurance for the blind that is long overdue.

For purposes of clauses (i) and (11) of such section, a quarter shall not be counted in the case of an individual who is blind (within the meaning of "blindness" as defined in section 216(1)(1)) and has not less than 6 quarters of coverage in any part of any period ending with the quarter in which he attains the age of 65.

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My amendment ignores legal recognition to another hard fact confronted by the blind—they must always function without sight in a society structured for sight, and they must work in an economy organized by sighted people for sighted people. As a result, the blind person will need varying degrees of sight to assist him no matter what he does or how able he may be, and the only sure way to get this help is to be fully insured. In insurance payments to serve as a continuing source of funds to hire sighted assistance.

I ask in the hope, Mr. President, that this 93rd Congress will be known as the most important of all Congresses for blind Americans. It can achieve that distinction if we enact the disability Insurance for the blind that is long overdue.
This bill recognizes that a person who tries to operate sightless, in our sight-structured world, functions at a financial disadvantage. For whatever a blind man would do, whatever employment or activity he would pursue, he has the misfortune to be blind.

Sighted family members and friends may be helpful, when the inclination moves them to help the blind vending stand operator, the blind lawyer or teacher, the blind piano tuner, even the blind housewife so discerns that sight which is blinded is more reliably available than sight which is given from kindness.

The blind-owned who would function self-dependently, the blind person who would earn a living, who would live self-responsibly, must not only pay the usual daily living costs which his sighted fellows pay, but he must also pay the extra, the burdening expenses of blindness—the expenses incurred in hiring sight.

By allowing a blind person to draw disability insurance payments so long as he continues work, Hughes, Bunn, O'Byrne, Cummings, this bill would provide to such blind person, a regular source of funds to pay for sight. It would thus help to reduce the economic disadvantages and inequalities of blindness in his life.

**AMENDMENT No. 636, LIBERALIZATION OF Social Security-covered work is, of earnings so long as the blindness lasts, rather than cutting off benefits if the blind person earns as little as $140.00 in a month as provided in existing law.**

**WHAT CHANGES WOULD DO**

The Disability Insurance for the Blind bill would transform the Disability Insurance Program providing only subsistence income to long-time employed but presently unemployed blind persons into a system providing short-term employed blind persons with insurance benefits. Hence, the consequence of blindness—diminished earning power, greatly diminished employment opportunities, increased short-term employed blind persons with insurance income to family members and friends may proceed 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.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I send to the desk Amendment No. 626, as modified and ask that it be stated.

**PART B. PAYROLL TAX FOR LOW-INCOME INDIVIDUALS**

SEC. 112. (a) Section 3101 of the Internal Revenue Code of 1954 (relating to tax on employ-ees) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE TAX ON LOW-INCOME INCOME" PROVISIONS

1. Reduces needed quarters of covered employment to 6 from the present 20, to be eligible for disability insurance.
2. Would affect approximately 80,000 persons, presently working.
3. Would cost about $500 million. There are 61 cosponsors (see attached list).

PROVISIONS

Allows qualification for disability benefits to the blind according to the generally accepted definition of blindness (20/200, etc.) and who has worked six quarters in Social Security-covered work any time earned, rather than 20 of the last 40 quarters as required of those with other disabilities; continuation of benefits irrespective of earnings after blindness lasts, rather than cutting off benefits if the blind person earns as little as $140.00 in a month as provided in existing law.

**WHY CHANGES ARE NEEDED**

To many blind persons, able to work, although blind, but unable to secure work because they are blind—or unable to secure work of long and steady duration, because they are blind—to these people, the requirement of employment for a year and a half in Social Security-covered work, instead of five of the last ten years requirement in existing law, is much more realistic and reasonable under the special and adverse circumstances of blindness.

It is much more realistic, when considering the misinformed or uninformed attitudes, the general tendency to confront blind people when they seek work, when they are qualified by talent and training for work, when they are skilled and able to cope successfully with blindness, yet, are not hired because they are believed to be incompetent and incapable.

Many disability insurance payments available when a blind person has worked six quarters in Social Security-covered work is much more realistic than the present requirement, for it would make such payments more readily available to more persons when they are needed, when the need for the security provided by regularly received disability insurance payments is greatest in a workman's life.
an amount of the tax imposed by section 3101 determined under the following table:

The amount to be deducted is the following percentage of the amount required to be deducted under subsection (a):

| Less than $0 | $0 to $49 | $50 to $99 | $100 to $149 | $150 to $199 | $200 to $249 | $250 to $299 | $300 to $349 | $350 to $399 | $400 to $449 | $450 to $499 | $500 to $549 | $550 to $599 | $600 to $649 | $650 to $699 | $700 to $749 | $750 to $799 | $800 to $849 | $850 to $899 | $900 to $949 | $950 to $999 |
| 0 | 10 | 20 | 25 | 30 | 35 | 40 | 45 | 50 | 55 | 60 | 65 | 70 | 75 | 80 | 85 | 90 | 95 | 100 | 105 | 110 | 115 | 120

(2) ADJUSTMENTS TO TAX.—For purposes of this subsection, the adjusted wages (computed at an annual rate) are:

| Less than $0 | $0 to $49 | $50 to $99 | $100 to $149 | $150 to $199 | $200 to $249 | $250 to $299 | $300 to $349 | $350 to $399 | $400 to $449 | $450 to $499 | $500 to $549 | $550 to $599 | $600 to $649 | $650 to $699 | $700 to $749 | $750 to $799 | $800 to $849 | $850 to $899 | $900 to $949 | $950 to $999 |
| 0 | 10 | 20 | 25 | 30 | 35 | 40 | 45 | 50 | 55 | 60 | 65 | 70 | 75 | 80 | 85 | 90 | 95 | 100 | 105 | 110 | 115 | 120

(3) For the fiscal year ending June 30, 1976, an amount equal to two twenty-fifths of the expenditures from such fund for such year.

(4) For the fiscal year ending June 30, 1977, an amount equal to one twenty-fifths of the expenditures from such fund for such year.

(5) For the fiscal year ending June 30, 1978, an amount equal to one twenty-fifths of the expenditures from such fund for such year.

(6) For the fiscal year ending June 30, 1979, an amount equal to one twenty-fifths of the expenditures from such fund for such year.

(7) For the fiscal year ending June 30, 1980, an amount equal to two twenty-fifths of the expenditures from such fund for such year.

(b) (1) Funds authorized to be appropriated by subsection (a) shall be appropriated by the Secretary of the Treasury for such fiscal year as shall be necessary to enable the employer to deduct the amount required under subsection (a) from the wages paid to any employee during the fiscal year.

(2) The Secretary of the Treasury shall furnish to the Congress a report on such matters as he deems necessary to enable the Congress to make the estimates referred to in paragraph (1).
November 29, 1973

CONGRESSIONAL RECORD—SENATE

36871

wages is paying an effective social security rate of just over 2 percent, while his income tax rate is almost 28 percent.

Clearly, there are major inequities in this tax structure. The Finance Committee, and preceding Congresses, have made a tax credit for low-income workers and families. There are several major deficiencies in this approach, however. First, it does nothing to make the payroll tax less regressive. Second, it applies only to married workers with children. Third, it is given at the end of the year, although low-income families need relief throughout the year.

The proposal I offer today is free from each of these deficiencies. It is a direct effort to introduce a progressive feature into the payroll tax. Second, it applies to all married workers, with or without children. Third, it provides relief with every paycheck check.

Mr. President, my proposal is a simple one, yet long hours of thought and effort have gone into its preparation. What it provides is that a worker with a tax liability of $40 or less, or $70 or less for a worker with one dependent, would have a tax liability of 10 percent of his or her salary. The tax liability for workers with one dependent is $70 or less. A worker with an income tax liability of 0 to $49 pays 15 percent of his or her social security tax obligation. From that point on, every $50 in the worker's social security tax obligation is increased 5 percent, until the tax liability reaches $90. At that point, the worker pays the full social security tax which is normally due.

The tax credit applies only to the employee's share of the normal tax on the worker's salary.

Mr. President, I ask unanimous consent that tables showing the operation of my proposal at various levels of income for single and married workers be printed in the Record at this point.

There being no objection, the tables were ordered to be printed in the Record, as follows:

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**TABLE I.—MARRIED WORKER—SPouse NOT WORKING—NO CHILDREN**

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<table>
<thead>
<tr>
<th>Gross wages</th>
<th>Income tax liability</th>
<th>Full social security tax</th>
<th>Percent social security tax</th>
<th>Har/te security tax credit</th>
<th>Finance Committee tax credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,000</td>
<td>$90.50</td>
<td>$155.17</td>
<td>75</td>
<td>$38.79</td>
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<tr>
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<td>$233.03</td>
<td>75</td>
<td>$65.83</td>
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<td>$3,000</td>
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<td>$595.00</td>
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<td>$177.85</td>
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**TABLE II.—MARRIED WORKER—SPouse NOT WORKING—2 CHILDREN**

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<tr>
<th>Gross wages</th>
<th>Income tax liability</th>
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<tr>
<td>$3,500</td>
<td>$392.75</td>
<td>$725.00</td>
<td>75</td>
<td>$215.15</td>
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**TABLE III.—MARRIED WORKER—SPouse WORKING—NO CHILDREN**

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Mr. HARTKE. Mr. President, let me clarify the modification of my amendment. As originally introduced, it covered all taxpayers paying the social security tax. As introduced, the cost estimate was close to $2 billion.

I have modified my amendment to cover only married workers thereby reducing the cost of my amendment to the same amount on bill on order. The significant difference here is the coverage. Under the Finance Committee bill, only married workers with children are covered. Under my amendment, all married workers are covered regardless of whether or not they have children.

Let me emphasize here that two significant groups of people will be covered by my amendment that are not covered by the bill as reported. Those groups are the newly married individuals who are entering the job market at a low-income level, and those married couples who have raised their children and are now unable to secure employment at a high income because of age, disablement, or lack of training. We must not forget those people who will significantly contribute to the economy of this country, nor those people who have already contributed throughout their lifetime. My amendment would bring both of these groups within the payroll tax deduction.

I have further modified my amendment, and struck all changes in medi-care and hospital insurance. I have made this modification for one reason, I feel that it is absolutely necessary that the bill we approve here in the Senate provide for relief to the low-income worker. Under my amendment there would be immediate relief to those workers who need it most.

Mr. President, I have notified the manager of the bill, chairman of the Finance Committee, that this amendment deals with provisions covering how we alleviate the present burden of the payroll tax. There has been in the bill, under the direction of the chairman, a measure whereby there is a tax credit for certain low-income people. This is in direct conflict with that approach. I feel this is a preferable one, but, under the circumstances, in view of the fact that the committee has approved the other provision, I feel we should give the chairman's approach preference, although I would want to proceed at a later date, in another year, with this approach, and I hope I can convince the chairman to agree with that approach.

Under those circumstances, I withdraw the amendment.

THE PRESIDING OFFICER. The amendment is withdrawn.

ORDER THAT AMENDMENT NO. 723 BE PENDING BUSINESS ON TOLL.

Mr. GRIFFIN. Mr. President, I ask unanimous consent, on behalf of the Senator from New York (Mr. Javits), that his amendment No. 723 be called up and made pending the question tomorrow.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. GRITTI. The amendment of the Finance Committee bill, as reported by the Senate Finance Committee, as amended.

Under the amendment, all married workers are covered regardless of whether or not they have children. Let me emphasize here that two significant groups of people will be covered by my amendment that are not covered by the bill as reported. Those groups are the newly married individuals who are entering the job market at a low-income level, and those married couples who have raised their children and are now unable to secure employment at a high income because of age, disablement, or lack of training. We must not forget those people who will significantly contribute to the economy of this country, nor those people who have already contributed throughout their lifetime. My amendment would bring both of these groups within the payroll tax deduction.

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The PRESIDING OFFICER. The amendment is withdrawn.

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The PRESIDING OFFICER. The amendment is withdrawn.

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The PRESIDING OFFICER. The amendment is withdrawn.

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The PRESIDING OFFICER. The amendment is withdrawn.

ORDER THAT AMENDMENT NO. 723 BE PENDING BUSINESS ON TOLL.

Mr. GRIFFIN. Mr. President, I ask unanimous consent, on behalf of the Senator from New York (Mr. Javits), that his amendment No. 723 be called up and made pending the question tomorrow.

The PRESIDING OFFICER. The amendment is withdrawn.
stand in adjournment until the hour of 10 a.m. tomorrow morning. The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS WEICKER, PERCY, AND GRIFFIN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized tomorrow under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Senators WEICKER, PERCY, and GRIFFIN.

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

ORDER FOR RECOGNITION OF SENATOR MANSFIELD AND FOR CONSIDERATION OF PENDING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by the able Senator from Michigan (Mr. Garamen), the distinguished majority leader, the Senator from Montana (Mr. Mansfield), be recognized for not to exceed 15 minutes, after which the Senate resume the consideration of the unfinished business, H.R. 3163.

That means that there will be no period for the transaction of routine morning business early tomorrow. The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PLACE S. 5 ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the bill S. 5, which was referred to the Committee on Government Operations for 60 days, and that the bill be placed on the calendar.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized each for not to exceed 15 minutes and in the order stated: Senators WEICKER, PERCY, GRIFFIN, and MANSFIELD.

At the conclusion of the aforementioned orders, the Senate will resume the consideration of the unfinished business, H.R. 3163, a bill to amend the Social Security Act and make certain technical and conforming changes.

At that time the question before the Senate will be on agreeing to amendment No. 723 by the Senator from New York (Mr. JaVits), on which there is no time limitation.

Yea-and-nay votes will occur on tomorrow.

It is the hope of the leadership that on tomorrow the Senate can complete action on the unfinished business, the social security bill and take up the debt limit matter and can also dispose of the day-light saving time bill. That means that we will have a pretty full day.

Mr. President, I am directed by the distinguished majority leader to indicate the possibility of a Saturday session if we cannot complete our business on tomorrow. Hopefully we can complete the business that I have outlined. Senators can, therefore, expect several rollcalls.

Senators ought to be prepared to have a reasonably long session tomorrow.

Mr. GRIFFIN. Mr. President, will the distinguished majority whip yield for an inquiry on the program?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. In so far as the debt ceiling matter is concerned, that would be a privileged matter and could be brought up at any time, is that correct?

Mr. ROBERT C. BYRD. Yes, the Senator is correct. The law will expire at midnight tomorrow, and it is hoped by the leadership on both sides, after consultations that have taken place today on this side of the Capitol, and after having consulted with the leadership on the other side of the Capitol, that that matter can be resolved fairly expeditiously tomorrow in the Senate, so that it can go back to the House and perhaps be resolved there in ample time before the law expires.

Mr. GRIFFIN. But insofar as any particular time or scheduling is concerned, that is not determined at this point?

Mr. ROBERT C. BYRD. It has not been determined, the Senator is correct.

ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:47 p.m. the Senate adjourned until tomorrow, Friday, November 30, 1973, at 10 a.m.