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Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

SENATE—*Wednesday, January 31, 1973*

The Senate met at 12 o'clock meridian and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Right Reverend Monsignor Patrick J. Ryan, major general, U.S. Army, retired, Washington, D.C., offered the following prayer:

Almighty God, our Heavenly Father, we lift our hearts in prayer to renew again our loyalty to You and to our beloved country. We ask You especially to bless this august body of lawmakers as they convene today. Direct them by Your wisdom, surround them by your justice, guard them by your power. Make them prudent in judgment, steadfast in danger, patient in adversity, humble in prosperity. Let them learn from You how fragile is the earthly, how great the divine, how brief the temporal, how permanent the eternal. Pour out Your spirit upon all our people, so that they may not confuse dissent for disloyalty. May they use their mighty power for the healing of differences among nations, for justice and mercy and love, and for the peace of all mankind. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, January 29, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

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

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

ATTACK ON SENATOR STENNIS

Mr. MANSFIELD. Mr. President, it was with shock, to put it mildly, that I learned of the shooting of the distinguished junior Senator from Mississippi (Mr. STENNIS). It is my understanding that his condition is still serious, but that the doctors are encouraged, and that the Senator is conscious.

I hardly know what to say about this incident except to express my great sorrow and deep regret that this cold-blooded shooting has occurred in the Capital of the Nation. I am sure that there are many other "Senator Stennises" who have not received the publicity which this one has received. I would hope, in the name of the American people, that appropriate legislation would be reported by the Committee on the Judiciary, at the appropriate time, and as expeditiously as possible, so that we can guarantee a greater degree of safety than we can at this time to our citizens in the cities, in the suburbs, in the rural areas.

It is disgraceful that an instance of this sort can occur—and it does occur daily—in this city. It is a necessity that something be done, and done quickly, not on the basis of emotion, but on the basis of the facts as they exist. We are all aware that many citizens have to undergo the same results of criminal activities as our distinguished colleague is undergoing.

The Democratic conference this morning asked the leadership to forward a request to the distinguished chairman of the Committee on the Judiciary, the senior Senator from Mississippi, the President pro tempore of this body (Mr. EASTLAND) and to the distinguished senior Senator from Arkansas (Mr. MCCLELLAN), so that the omnibus crime control bill can be reported, after the committee holds hearings, as expeditiously as possible; and also other legislation seeking to cope with this gripping ailment, this illness, which affects the Republic, so that the necessary corrective measures can be brought into being, and thereby to safeguard the well-being of our citizens to the greatest possible degree.

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. SCOTT of Pennsylvania. Mr. President, the ending of the violence in which the United States was involved abroad turns attention more sharply than ever to the enormous increase of violence in this country. Our cities are dangerous places in which to live. It is hazardous for our citizens, regardless of their location within the States or their status in a community. We live behind locked doors. We see armed guards around our embassies. We have an increased police force—and a good one.

My own experience, in my own house, is that we are barricaded in at night, with huge wooden beams across the doors. Available windows and available french doors are nailed shut. This is the kind of life which we are compelled to lead in a city where the corruption of lust and greed is rife, and the ease with which violence can be committed and the readiness with which weapons can be procured are prevalent. All these things are the concomitants of a society where there has been a search for scapegoats, rather than a consistent, more zealous pursuit of the solution.

The shocking assault on our friend, Senator STENNIS, who was a schoolmate of mine at the university we attended—he has been my friend longer than I have known any other Member of Congress—is another very sad example of what goes on here and in other places. I do not think we should search for scapegoats. Let us move with the omnibus crime control bill; move with that kind of legislation which seems necessary and desirable, and to the degree with which we can make it preventive.

I think we ought to redouble our concern about putting an end to the pushing and the use of drugs. We do not know whether this crime was done by someone in search of money with which to purchase drugs or not. We do know that it was done callously by a couple of teenagers who deliberately, after the robbery, shot a man, gravely injuring him, for the sheer power and joy of the act itself. That, of course, will be of some help to the sob sisters who cheer the courts for abolishing the death penalty. They say it is not a preventive. I say it is. I would not impose it too widely or without regard to the kind of crime involved. But where skyjacking is involved, where robbery with a weapon is involved, where kidnaping is involved, we ought to have a restoration of the death penalty.

This is no new thing with me. I have advocated it before. I am not simply reacting to an emotional moment.

Our sympathy goes out to Senator STENNIS, his wife, and all his loved ones. We hope that he will recover soon and be back with us. His distinguished career is such that every day we need him here, and every day he is a guide and a friend.

I hope that we will be brought more suddenly aware of the need to proceed to do more things about the ills that infect and infest the American Nation, particularly its cities, than we have heretofore done.

APPOINTMENTS BY THE VICE PRESIDENT—NATIONAL COMMISSION ON FIRE PREVENTION AND CONTROL

The PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law

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90–259, appoints the Senator from Alaska (Mr. STEVENS) to the National Commission on Fire Prevention and Control, in lieu of the Senator from Delaware (Mr. Boggs), retired.

APPOINTMENTS BY THE VICE PRESIDENT—SENATE OFFICE BUILDING COMMISSION

The PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to Public Law 84–944, appoints the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Maine (Mr. HATHAWAY) to the Senate Office Building Commission, in lieu of the Senator from North Carolina (Mr. JORDAN) and the Senator from Georgia (Mr. Gambrell), retired.

ORDER OF BUSINESS

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

Mr. HUMPHREY. Mr. President, I understand that the distinguished Senator from California must leave on another assignment. If it is agreeable, I yield to him whatever time he requires for a statement at this time, provided that the Senator, who also has time under the orders, will yield me an equal amount of time for my presentation.

Mr. TUNNEY. I certainly do. I have not yet been recognized, but I yield in advance my 15 minutes to the distinguished Senator from Minnesota.

A TRIBUTE TO EUGENE L. WYMAN

Mr. TUNNEY. Mr. President, Eugene L. Wyman was both a quiet and a majestic man. His impact on the lives and the hearts of others was powerful. His manner was warm. His talent was great. His energy was boundless. His friendship was deep.

When I learned that he had died unexpectedly, the loss was startling. He was young, vibrant, and active. If I or a colleague needed advice, encouragement, or simply wanted to share the stimulation or challenge of a lively conversation, we would pick up the phone and call Gene. He was always there.

I miss Gene deeply. Still, I fear that, as the days pass, his loss will be felt even more profoundly. The support and strength which he gave to so many will be missed more fully as time passes and the full measure of his absence is absorbed.

Although Gene lived only 47 years, he left a lasting legacy—both public and private. His public legacy is well known especially to members of my political party. His leadership and dedication to practical progress were invaluable to Democrats both in California and across the land.

But it was not only for members of his party that he had a sense of dedication. I recall shortly after being elected to the Senate when Gene invited me to his home to meet some of the leaders of the Republican Party of California. The kind of friendship that had grown up between Gene and them belied any accusations that could be made that Gene Wyman was first and foremost a partisan. He was not. He was first and foremost an American and he was prepared to work with anyone of any political persuasion in order to bring to fruition his ideals.

His loyalty and his wisdom combined into a remarkable talent and strength upon which many, many persons relied.

That loyalty and wisdom, and the love with which he imparted those qualities to his family and friends affected most those who had the enriching privilege to know him best. Obviously, no one was more affected by these qualities of Gene Wyman than his warm and wonderful family. I have never met a man with Gene Wyman's responsibilities, who was as busy as he was with his law practice, charitable services, with political activities, and yet who made more time to spend with his family and to care for their interests.

Shortly before he died he asked me if I would speak at the school where his son, Bob, is studying. I said that, of course, I would, and I went there to speak. As it turned out, only the high school students were invited to the speech. Bob is still in the junior high school so he did not hear the speech. Gene wrote me a letter, which I received the day after his death, thanking me for having gone to the school and saying that inasmuch as his son did not have the opportunity to hear my speech that he wanted a raincheck. "Won't you come back," he asked. That was the way he related to other people. He related to them as a warm, affectionate, human being who was deeply concerned about his family.

The love that he and his wife Roz shared was known to all who knew them. No secret was made of the rare and tender affection that Gene held for Roz and that Roz held for Gene. Few marriages have been as blessed. Few relationships have been as close.

That marriage produced three talented children, Betty, Bob, and Brad. These three children were the apple of his eye. Gene was not privileged to share enough of their lives with them but anyone who has met Betty, Bobby, or Brad knows that Gene had his impact upon them—that they have the vitality and energy that marked Gene's life.

We will remember Gene for the causes in which he believed and to which he dedicated himself: The improvement of this Nation and the survival of the State of Israel. We will also remember him for the quiet and yet profound way in which he touched our lives—with deep concern and loyal friendship. He was an unusual man and a loving friend. His living memory will never leave the lives of those he touched.

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

Mr. TUNNEY. I yield.

Mr. MANSFIELD. I wish to join my distinguished colleague in sadness on the passing of a man who contributed much and expected little.

I had the privilege of being with Gene Wyman in Los Angeles in mid-October. As always, it was a joy to see him and his wife Roz. But now, as always, it is sad to note that this man of outstanding ability and integrity has now passed from the scene. There is little that one can say in times like this. But I do want the record to show my high regard for this outstanding citizen, to express my deep regret and sense of personal loss and sadness, and to extend to his wife Rosalind the sympathy of my wife, my daughter, and me in her hour of sorrow.

Mr. HUMPHREY. Mr. President, first of all, I wish to thank the distinguished Senator from California for his beautiful words of eulogy and tribute to our friend, Gene Wyman, and of course the words of our distinguished majority leader.

On Friday, January 19, I lost one of my beloved friends when Eugene Wyman suddenly and unexpectedly died. I rise to offer my condolences to his loyal and devoted wife, Rosalind, to his dear, wonderful children, Betty, Bob, and Brad, and to his saddened and shaken mother, family, and friends. It is with grief that I speak of this most honored friend and brilliant young man. But it is with the realization that in his brief 48 years of life, Gene Wyman lived a full life, one of great service and deep experience.

One of my Jewish friends recently brought to my attention a piece of wisdom from the Talmud which urges us to measure the life span of a man not by the number of his years but by the number of his good deeds in behalf of his fellow man. By these true standards, Gene lived to be a very old man because those deeds were legion in number.

A reading of his many outstanding obituary notices might lead a stranger to believe that Gene's most noteworthy accomplishments were in the political area. It is true that it was through this opportunity that I and many of us here in this Chamber came to meet Gene and Roz Wyman. But I personally came to see that the strength, compassion, and wisdom of that man permeated so many other areas of his life and contributed to so many aspects of our society.

Gene, a self-made man who worked his way through school to become one of the most able and successful lawyers in our country, was committed to education as the vehicle for enlightenment and fulfillment in a democratic society. The scholarships endowed by him are evidence of that commitment.

Even as he looked ahead to the better tomorrows in mankind's evolutionary development, Gene never forgot his ancestry and the beautifully rich traditions of his Jewish faith, both in this country and as it achieved its historical promise in Israel. Gene Wyman's tremendously dedicated and successful efforts for the purchase of Israel bonds in this country are evidence of that commitment. And by merging his commitments to Israel and to education, it was only natural that Gene should have directed his energies toward Hebrew University on Mount Scopus where, as a tribute to these efforts, the Rosalind and Eugene Wyman Political Science Building will be dedicated later this year.

But the true measure of that rare man must be taken by humanitarian, person-to-person relationships—and by family relationships—and here again, Gene excelled. Bess Myerson's most moving and eloquent eulogy at his funeral services last Sunday described these qualities in words that cannot be surpassed. I know because I was one of those many friends strengthened by Gene's judgment and human warmth—the excitement and pleasure of the conversation that good food and fellowship around the dining room table at the Wyman California home; and the relaxation and comfort sitting around the Wyman living room with an occasional movie to soothe the exhausted body and sometimes troubled spirit. These memories will always remain—memories that include wise counsel and advice of this unusual and brilliant man.

Gene's political work can only be correctly understood with the perspective of these other qualities and commitments and so I return to politics. To Gene, politics was not a tool for self-aggrandizement. Indeed, few have sacrificed so much and given of themselves more to the political process. To Gene, politics was the highest service a citizen could perform for his country. It was the price we had to pay for civilization and the opportunity for the highest aspiration of citizenship. And as a loyal American, as a devoted Jew, as a lawyer with an understanding of freedom's value, as a father anxious to pass on a better society to his children—indeed as a true citizen of a democracy, Gene Wyman knew that participation in the political process was the proper expression of the Judaic-Christian ethic that permeates the idealism of our country.

It was a matter of profound regret that I was unable, due to illness, to be present at Gene Wyman's funeral service. My wife, Muriel, and my friends tell me that its spiritual dignity was appropriately symbolic of Gene's values in life. The two beautiful eulogies delivered that afternoon provided that message. The services and eulogy delivered by Rabbi Jacob Pressman, of Temple Beth Am, reflected the close association between Gene and this most distinguished and respected man of learning and religion. Bess Myerson's beautifully moving tribute came from a heart eternally touched and ennobled by Roz and Gene Wyman's loyal and devoted friendship with this unusually talented and brilliant public servant.

Gene was, in many ways, a very fortunate man—fortunate in the sense that he had as his partner this wonderful lady that we affectionately called Roz, whom we know as Rosalind, and a host of his friends that brought joy and meaning to life. I miss him. His passing is a great personal loss, but, more significantly, I think it is a loss for his community of Los Angeles and California, for the Democratic Party, to which he gave so much of his time, talent, and resources, and indeed to our country.

Gene Wyman was a voice of reason. His was a voice of compassion. His was a life of service.

I ask unanimous consent that eulogies delivered at the funeral service be printed in the RECORD at this point.

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

EULOGY BY RABBI JACOB PRESSMAN ON THE DEATH OF EUGENE L. WYMAN

It is written in the talmud Rabbi Tarphon said, "The day is short, and the work is great, and the laborers dally, and the reward is much, and the master is urgent. It is not thy duty to complete the work, but neither art thou free to desist from it."

The modern classic Hebrew poet, Chaim Nachman Bialik, wrote his own epitaph, saying:

אחרי מותי, ככה ספדו לי
היה איש, וראו, אינגו עוד
קודם זמנו מת האיש ההוא
ושירת חיין בעמצה נפסקה
וצער — עוד היה לאיש מזמור אחד
והמזמור, אבד לעד, אבד לעד.

"After my death, thus shall you mourn for me.
There was a man, and behold, he is no more.
Before his time he died, this man,
And the song of his life was interrupted in the middle,
And oh, the tragedy! He had one more song
And now that song is lost, forever, lost forever."

DEAR FRIENDS: When the utterly shattering, unbelievable word raced through the United California Building, work abruptly ceased in dozens of offices. When it flashed throughout the city on news broadcasts minutes later, the cry of, "Oh, no! It can't be! It musn't be" sprang to the lips of men and women in a thousand locations. When it reached across the land, the phones started ringing, and plane reservations were hastily arranged, and a torrent of grief and love began to rush toward the Wyman home. There, as each new visitor hugged and kissed Roz and the children, people, whether humble or prominent, wept unconsolably, where they had come to console, wept out of this deep, frustrating sense of helplessness and personal loss that grows at the vitals of every person in this sanctuary.

What is there about this Eugene L. Wyman that makes this moment so difficult, so unreal? It isn't only that we reject the notion that a man of forty-seven can be stricken so swiftly. It is that our Gene exuded such a vibrant, vital air of purpose, and vitality, and confidence, and strength and youth, and love; and these are the very antithesis of death.

But, no matter how we might wish it otherwise, this moment is real, and the harsh fact is that Gene's great heart is still, and from the four corners of the land, and from every pursuit and station in life we have come to pay our respects. Secretaries and Senators, Congressmen and Consuls, businessmen and bankers, producers and politicians, actors and academicians, clients and colleagues and representatives of the broadest spectrum of human interests. And all of us convinced he really cared about us. That was the keynote of his life, and Bess Myerson sounded it; he cared.

When did he start caring? I think it must have been when he lost his mother at the age of six, when he was the big brother—and Milford, the baby, and Gene reached out to please—please his father, Abe—please his Aunt Harriet, who at eighteen married Abe and became Gene's second mother—please Milford and later Melvin when he came along—please his teachers in school by trying harder.

It was in school. Ducoyne Township High School in Illinois, that Gene found his first and oldest mentor, Paul Hibbs, who saw the genius in the 16 year old athlete who had broken his leg and turned to debating. Mr. Hobbs poured his eloquence and erudition into Gene with exacting but loving demands, and Gene rewarded his teacher not only with a shower of awards won for his school but with a life-long friendship. Gene called him often, paid him the high compliment of seeking his help with words, and recently established a scholarship in Paul Hibbs name at the very university, Northwestern, to which Mr. Hibbs had obtained a scholarship for Gene. Paul is here today, in sadness united with the family as he has been in joy, because Gene cared.

He cared for learning, and pursued it at Northwestern and later at Harvard Law School, where he edited the Law Review and continued to earn highest honors.

He cared for the law, and came here to California to practice it—starting out, a struggling unknown, and ultimately leading one of the largest and most prestigious firms in the land.

He cared for this country. He enlisted in the army during World War II the moment he graduated high school and served for a time before they discovered his eyes didn't measure up to army requirements and he was released. But in time found a way to serve our country—by entering the political arena and helping good men to travel the costly road to elected office—men like the late John F. Kennedy, Lyndon B. Johnson, Hubert Humphrey, Edmund G. Brown, Pierre Salinger, and John Tunney among others. And Gene was scheduled to chair the Jackson-Jefferson Day dinner in Washington in May, to raise millions to meet the indebtedness of his party. He took the grinding, unglamorous job of fund-raising because he believed that he could best serve and help America by making the political process work.

He cared about friends and never forgot them—old or new. He still called his boyhood chums from Illinois wherever they were. We here all know men, less important and overburdened than Gene, who were inaccessible, and play hard to get. But Gene, he had time to answer a call or call back later and make us feel comfortable and thank us for calling on him. Perhaps that is why I have seen great men's shoulders heaving sobs these past 48 hours and heard women telling how they could take their troubles to him for wise counsel more easily than to any other living person.

He cared for Israel! What a phenomenal job he performed for her during his chairmanship of the Bonds of Israel campaign, and during his chairmanship of the Friends of Hebrew University. The drive, the imagination, the love he poured into those campaigns are recognized by a grateful State of Israel, as messages conveyed through Counsul General Yoachov Avrad testify.

This sanctuary has memories of his caring. He never said no to the Temple or to me. He stood here at this very podium and urged our people on to new peaks of giving for Israel. He stood there at the center table and presented his good friend Otis Chandler to our people. Two months ago he stood on the floor exactly where his body now rests and had a rap-session with our fascinated teen-agers about politics and law.

He cared for all of us, his friends, and I have a feeling that if he could speak to us now, he might say, Good friends, be kind to one another. Life is so short, and you just dont' know how long you have! So all those good things you meant to do—don't put them off. You husbands and wives in your prime—be tender and say all the loving things in your heart—don't put them off. Take time for your kids—now—because time is a one

way street—and now is when they need you. All the other stuff isn't all that important—do the really important, personal things today—Because, tomorrow—who knows?"

But, most of all he cared about you in the family room—about brother Milford and Ray, and brother Melvin and Sybel—about Harriet—about Roz's dear mother and dad, Sarah and Oscar, so recently bereft of their son George. He was also a son to them and they doted on him. To say he cared about Betty and Bob and Brad is inadequate to describe the father who studied with them, played with them, shared his careers with them, shared his time with them. Your daddy knew the pain and astonishment you feel in your hearts today—when his natural mother died and when his own dad died 17 years ago. And you will be just as brave and good as he was, and find a place for yourselves in life because of all he has taught you—I know you will. And you will help your Mom as she will help you.

As for Roz, how she cared for you—respected you, encouraged you, fought fiercely for you and loved you. When I married the two of you 18½ years ago. I said, "You are going to be two very busy people. Reserve quiet moments in your life for each other, and let nothing intrude and rob you of them." Well, you promised and you kept your promise. Thank God you did because you can look back without regret upon a marriage in which busy as you both were publicly, you managed to have the kind of home Bess described at the Scopus dinner last December "a warm and happy home"—of which a friend once said, "It's a great place to visit, but boy, would I love to live there."

Roz, when I blessed the two of you on your wedding day, I prayed for a long life for you both. Somehow in the cosmic scheme of things, your marriage was not destined to be long, but deep, and significant and faithful, and beautiful. And for that, in days to come, you will find the strength, to say, "dear God, thank you for giving me this beautiful man for the years that you did, and thank you for letting us love each other as we did."

SELF EULOGY—WRITTEN BEFORE HIS DEATH BY RABBI BERNARD HARRISON, DECEMBER 1957

If I had one year to live. . . . I would want to live longer—but would console myself with the hard medicine, that no one lives forever! There is a time to laugh and a time to weep—to sow—and to reap—to be born and to die.

If I had a few years—I would want to be loved, for myself—with all my frailties and my strength—and if I can't hold to my love so long—then I would find consolation in this—that it is better to have loved deeply, sincerely, fully, and lost—than never to have loved at all.

If I had but a short time to go—I would want to live it so that my children would remember me kindly, lovingly and with pride in their hearts for what good qualities I may have been blessed; and for them to walk in my footsteps—their memory of me, a spur and inspiration to them.

And, if my parents survived me, and my brothers (and sisters)—to remember what joy I may have brought them and forgive what hurt I may have done them—and above all. That we had each other for even a little while.

If I had a short time to go—I would want to do something I could take pride in—my chosen work—if I were a builder, to build one beautiful, as nearly perfect home, as I could. If I were a physician, to bring back to health, at least a few who are in mortal danger, and if I could not do more, to console myself with this—

(That homes were built before me and will be after me; that lives were saved and will be saved—and) if I were to live a hundred years I could not build all the houses and bring back to health all the ill in the world.

And so, with what time is allotted for me—I would want to do my work so that my colleagues would take pride in it—and be honored in our association.

And if I had a little while to be here—I would want to win to myself the love and companionship of friends, friends who would respect me and love me whatever my weaknesses and faults, and remember only those good qualities I may possess, and—finally—if I had but a short time left—

I would be charitable to all men—irrespective of their creed or color. I would try to do what good I can to my fellowmen and leave the world a little the better, the happier, the nobler, for my having been in it.

And, if I could not stay longer here—I would find consolation in this:—the grandest sepulcher of all is not where my remains may be laid, but to have found a home in the *minds* of men.

And I would want this to be remembered by my beloved, my children, and my family, my colleagues and my friends:

Forget that I died—remember only that I lived:"

Let us rise.

EUGENE WYMAN—EULOGY DELIVERED BY MISS BESS MYERSON, JANUARY 21, 1973

Our lives are poorer today, now that Gene is gone, but how much poorer we would be, each of us, if his life had never touched ours.

Whatever is best in us has part of Gene in it. His quiet strength renewed our own. His loyalty taught us the deeper meanings of friendship—his compassion drew us out of our own selves.

He cared—one of his friends once said—"When Gene says, 'How are you,' he really means it and he's ready to listen."

He invited other people's lives into his own. He was not reluctant to become involved. If *you* had a problem, *he* had a problem—and he brought the full force of his energy and his talent to those problems, small or large, as a friend, as a neighbor, as a citizen of this country he loved so strongly.

Whenever there was work to be done to try to make lives and conditions better, the word "NO" was not in Gene's vocabulary.

For those who didn't care enough to get involved and who tried to mask their indifference by saying, "Well, what can you do, that's the way things are today." Gene had an answer, "Yes, but they don't have to be that way tomorrow." Tomorrow was always the spur of Gene's life because he was a planner of changes and a builder of futures. Gene could find the common denominators of the human condition and bring people together.

"Come on over, we'll talk", he would say—and somehow areas of confrontation would become areas of cooperation and frequently new friendships would be formed.

He always seemed able to handle any problem and rarely burdened his friends with his own.

That's why I was startled one day when he said to me on the telephone—"Something is bothering me and I would like to discuss it with you." He sounded tired and I was concerned, although I couldn't imagine what the problem might be, but I was ready to help. I should have known Gene better.

"This is my problem," he said, "I'm worrying because I think you are working too hard on that job of yours and I want you to take it easy for a while—come on out to see Roz and me and the kids and have some fun."

That was his problem—as tired and overworked as he sounded at that moment. "Come on out to see Roz and me and the kids"—*that's* where Gene's life found its fullest expression.

He was a brilliant lawyer and a concerned and active citizen—but the solid foundations on which those careers were built were his family and his home.

That's where the love and compassion, which were evident in everything he did, had their deep roots—Roz and Betty and Brad and Bobby know better than anyone that this committed man had no greater commitment than as *husband* and *father*. No generation gap or human gaps of any kind ever came between the blessed members of this family circle.

Roz and Gene set high standards for their family—for themselves as parents and for their children. No ideas were strangers in their home—and all shared the joy, the excitement and stimulation as a family and as individuals of the widest variety of learning experiences—learning about each other and about the world and all its people—learning to understand and respect the ideas and work of the great men and women who visited the Wyman home and the anonymous also, who found friendship and respectful attention there.

It was home with a capital "H"—one he was always reluctant to leave for an evening or business journey, and the healthiest kind of place in which children (and parents) can grow. One measure of Gene Wyman and Roz Wyman, is their children—*minds open* with a sense of curiosity and adventure about all ideas and all people with the strength and the courage to accept individual and social responsibility and with the self-reliance to get done what must be done for themselves and for others.

Gene will live in their lives—and in the lives of all of us who knew him and loved him and learned from him how to reach for a better world. There is no more meaningful legacy.

He will be painfully missed by both those who knew him well and by those whose path crossed his only briefly. He will be missed as husband, as father, as son, as companion, as partner, as neighbor, as concerned citizen—and always, as friend.

And, when any of us in the future find ourselves in a rough spot, trying to choose the right way to go, and perhaps overwhelmed by the obstacles, I think we might hear again, inside our heads and our hearts, Gene saying what he said many times to each of us—"You can do it."

And as always, he'll convince us again, and we'll do it. That's his great legacy to us also.

The poet Carl Sandburg wrote and spoke these words at the passing of a great man and friend—and we speak them today for Gene.

"A bell rings in the heart, telling it and the bell rings again and again, remembering what the first bell told, the going away, the great heart still—and they will go on remembering and they is you, and you, and me, and me.

Can a bell ring proud in the heart—over a voice yet lingering, over a face past any forgetting/Over a shadow alive and speaking, over echoes and lights come keener, come deeper?

Dreamer, sleep deep, toiler, sleep long, fighter, be rested."

We will go on remembering, always.

Mr. HOLLINGS. Mr. President, it is a privilege for me to join my colleagues in paying tribute to Eugene L. Wyman. His untimely death at only 47 years of age comes as a shock to his many friends throughout the country. He was struck down in the very prime of his career, and we are much poorer for his passing.

Gene Wyman exemplified public serv-

ice at its finest. He offered his help to his party with no thought of personal advantage or advancement. He did it because he knew there was a job to be done, and he wanted to see it done with the same honesty and efficiency he applied to everything he was involved in.

Many of my democratic colleagues will recall the superb job Gene Wyman did in assisting the National Committee for the Reelection of a Democratic Congress this past year. It was an honor for me to be associated with him in several of the activities of the fall campaign. I know how pleased he was by the outcome of his endeavors. But he was never one to rest, and his activities were already aimed toward the future. He was hard at work in building his party for the days ahead.

Our deepest sympathy goes out for Gene's dedicated and lovely wife, Rosalind, and to all the members of his family. Mrs. Wyman brings to her work the same public spiritedness and high mindedness that her husband did. She is a major reason for the success of the Wyman team. We hope, Mr. President, that this remarkable lady will continue the labors of her husband and we look forward to our continuing association and friendship with her.

I ask unanimous consent that an article from the New York Times of January 20, 1973, be printed in the RECORD.

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

[From the New York Times, Jan. 20, 1973]

EUGENE L. WYMAN, LAWYER, 47, DIES—FUND RAISER FOR DEMOCRATS SERVED AS COAST CHAIRMAN

BEVERLY HILLS, CALIF., Jan. 19.—Eugene L. Wyman, a prominent fund raiser for the Democratic party, died, apparently of a heart attack, at his law office here today. He was 47 years old.

He leaves his wife, the former Rosalind Weiner, a member of the Los Angeles City Council; two sons, Bradley and Robert; a daughter, Betty, and two brothers, Melvin and Milford.

BACKER OF HUMPHREY

Eugene Wyman was the senior partner in the law firm of Wyman, Bautzer, Rothman & Kuchel and had served as State Democratic chairman in California and as a national committeeman.

Early in last year's Presidential campaign he raised the bulk of the funds for Hubert H. Humphrey's campaign.

When Senator George McGovern won the party's Presidential nomination, Mr. Wyman supported the Senator. However, he could not resist remarking that Mr. McGovern's choice of Sargent Shriver as his running mate, replacing Senator Thomas F. Eagleton, was "McGovern's first good move."

Mr. Wyman entered political fund-raising with John F. Kennedy's campaign in 1960. His theory of obtaining money was that big donors must be exposed to the candidate and "establish a personal relationship" with him.

Senator Humphrey had established contacts with wealthy men in California partly through his support of Jewish causes, and this caused Mr. Wyman to remark, "Hubert Humphrey is the best salesman of Israel bonds in the country."

In 1965 Mr. Wyman assisted Pierre Salinger, the former press secretary to President Kennedy, in forming the Golden Bear Club, a Democratic fund-raising organization.

Mr. SPARKMAN. Mr. President, I join with the other Senators who have risen here today to say a word about the recent death of Gene Wyman.

I certainly join with them in the expressions they have made. He was a man of vigor, a man of great activity, a man who, while he was played up in the press as a man who did a great deal of work in raising funds for political campaigns, was also a man who did many useful things in the community in which he lived.

He was a very active, progressive, clear-thinking young man.

He was taken away when he was only 47 years of age with still a prospect of long service beyond that point.

I extend to his dear wife my deepest sympathy in connection with his death.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the senior Senator from California is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that recognition be laid aside temporarily, but not forgotten, and that the Senate go into executive session to consider nominations on the calendar.

The PRESIDING OFFICER. Without objection it is so ordered.

EXECUTIVE SESSION

The Senate proceeded to consider executive business.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that consideration be given to the nominations in the Department of Transportation and the National Labor Relations Board.

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

DEPARTMENT OF TRANSPORTATION

The second assistant legislative clerk read the nomination of Frank C. Herringer, of Virginia, to be Urban Mass Transportation Administrator.

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

NATIONAL LABOR RELATIONS BOARD

The second assistant legislative clerk read the nomination of John Harold Fanning, of Rhode Island, to be a member of the National Labor Relations Board.

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

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I make the same request for those nominations.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I make the same request for those nominations.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I renew my request that the order for the time which was allocated to the distinguished Senator from California (Mr. CRANSTON) be vitiated at this time.

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

ORDER OF BUSINESS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the remainder of my time be allotted to my distinguished colleague, the senior Senator from South Carolina, on another subject.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

SENATOR ERVIN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a news story

which appeared in the Washington Star on yesterday, entitled "Man in the Hot Seat on Capitol Hill," by Shirley Elder, describing the situation which confronts the distinguished senior Senator from North Carolina, Senator SAM ERVIN, at this time be incorporated at this point in the RECORD.

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

MAN IN THE HOT SEAT ON CAPITOL HILL

(By Shirley Elder)

Samuel James Ervin, Jr., lawyer, judge, defender of the Constitution, took office as the junior senator from North Carolina on June 6, 1954. Almost immediately he was in the middle of things.

Only weeks before, the Supreme Court had jolted the South and ruled that separate-but-equal public schools were not equal enough for black kids. Ervin, born in the South, quarreled with that ruling and helped draft the Southern Manifesto in protest.

In those days, Sen. Joseph McCarthy still was hunting Communists and terrorizing federal workers, riding high, heading for a fall in which the new senator would figure prominently—as one of those who solemnly contemplated the facts and recommended censure.

The world has changed since 1954 but not Sam Ervin. He looks to the future in terms of the past with unabashed reverence for the United States Constitution as written, opposing expansion of those words either to the left or to the right.

He criticized the Supreme Court for expanding the Constitution in 1954 to outlaw segregated schools; he criticizes the Supreme Court today for narrowing the Constitution to force a newsman to testify before a grand jury.

Over the years Ervin often has found himself in the middle of controversy, fighting civil rights bills, fighting for individual rights, gaining a reputation as a constitutional expert. But the battles usually came one at a time.

Today Ervin again is in the middle of controversy and it is all coming at once. Acting as chairman of the Government Operations Committee, or one of two Judiciary subcommittees, constitutional rights or separation of powers, or as chairman of a new special investigating unit, Ervin will lead some of the most important legislative battles of the new Congress.

Starting today, he will conduct hearings on one of the hottest topics of the day, impoundment—President Nixon's practice of refusing to spend money appropriated by Congress. Ervin has a bill to give Congress a veto over impoundments.

Starting Feb. 20, Ervin will conduct hearings on a basketful of proposals designed to protect newsmen from court actions forcing them to reveal confidential information. He says legislation should not be necessary but the courts "missed the boat."

"I've always said all judges should possess wisdom as well as knowledge," Ervin said in a recent interview. "And I think if I'd been a judge out in California, I'd've exercised a little wisdom and tried not to compel that newsman (New York Times reporter Earl Caldwell) to reveal his sources."

That lack of wisdom, Ervin said, carried on up to the Supreme Court which rejected Caldwell's plea in a 5-4 decision. "Five of them muffed a golden opportunity to do something constructive in this field," Ervin said, "and they just flatly held the First Amendment didn't give a newsgathering any privilege at all."

Ervin said that in his own opinion, each case should be decided on its merits. There are some situations where a newsman should be compelled to testify but there are others when he should not. The courts must balance the two interests of society—to know what is going on through a free press and to prosecute crimes in which newsmen may have knowledge.

Starting as soon as a federal court trial is completed, Ervin then will take on the politically touchy issue of the bugging of the Democratic Party headquarters at the Watergate—and related tales of political espionage from the 1972 presidential campaign. He says it will be a thorough investigation and no witnesses will be allowed to duck behind a wall of "executive privilege."

"I think the Watergate is a very serious affair," Ervin said. "There are serious charges made about the spying on presidential candidates. There are serious attempts to disrupt political meetings. There are serious charges made about the misuse of campaign funds. And I think all of these things ought to be investigated.

"If people are not guilty about some of the insinuations, they ought to be exonerated. And if they're not guilty, they ought to insist on their own exoneration."

NO EXECUTIVE PRIVILEGE

Ervin said he is particularly concerned about the so-called "Canuck incident" in which Sen. Edmund S. Muskie, D-Maine, then campaigning for the Democratic presidential nomination, was accused of prejudice against French Canadians (by calling them "Canucks") in a letter to the Manchester (N.H.) Union Leader. The author of the letter, never located, was said to be a White House aide.

Ervin said the plea of executive privilege, often claimed as a general immunity from Congressional scrutiny for all White House staff, will not be accepted in the Watergate investigation.

Executive privilege is another area of Ervin concern and he enthusiastically backed a Senate Democratic Caucus resolution that would limit its use and provide for Senate review whenever a witness claims such immunity to avoid testifying.

There is a legitimate area of executive privilege, he said, but it is not an absolute right. It can be inferred from the constitutional grant of executive power to the President that there must be some confidential matters between President and staff, Ervin explains, just as investigative authority is seen as a necessary tool in Congress' power to legislate.

MIX OF CORNPONE, WISDOM

Ervin approaches his collection of assignments this year without hesitation: "My wife says if I see a controversy from far off, I come running right up and jump into the middle of it," he said.

But, when it comes to the Constitution, and all these matters touch in some way on the Constitution—rights and powers—Ervin is ready. He is, as one aide said, a scholar as much as a politician. He reads constitutional law cases for recreation.

At 76, Ervin's hair is grayer that when he arrived in Washington. His tall frame is a bit stooped but his words tumble out in a mix of cornpone and wisdom that has become familiar over the years on Capitol Hill.

His trademark is the folksy anecdote that makes a point: "Way back yonder when I used to practice law . . ." or "We had a very fine poet in North Carolina some years ago . . . or "That reminds me of a story . . ."

Sometimes the stories go on and on, punctuated by eyebrows that shoot up and down giving Ervin a slightly astonished look. But he obviously enjoys the stories and wants everyone else to. Often, as he speaks on the Senate floor, he will glance up to the press gallery to make certain the newsmen are getting the point.

But the great flow of words dries up when Ervin is asked about his personal life. He lives across the street from the Capitol in the Methodist Building with his wife of nearly 50 years. He is a private person. At home in Morganton, N.C., he likes to fish. In Washington, he reads.

Mr. MANSFIELD. Mr. President, the article is an excellent one. In my opinion, the Senator from North Carolina (Mr. ERVIN) is not only the man in the hot seat, but he is also the man who, as far as the Senate is concerned, deserves commendation at this time.

TRIBUTE TO WILLIAM SAFIRE

Mr. MANSFIELD. Mr. President, I note in the newspaper that Mr. William Safire, a Nixon aide, is leaving the White House to join the New York Times as a columnist.

May I say that I am sorry to see William Safire leave the confines of the Government, and I use the word "confines" advisedly. I applaud him for broadening out his activities to include the writing of a column for the New York Times.

This shift ought to bring together two refreshing points of view, and I am sure that spice will be added to the New York Times because of its acquisition of a man of the caliber of William Safire.

I have a very high regard for Bill Safire and his wife. I think they have performed outstandingly well together, and he especially as an associate of the President in the White House.

I take this means not only to ask unanimous consent to have the New York Times article printed in the RECORD, but also to extend to Bill and Helene Safire my very best wishes for them in the years ahead and my hopes for their continued success in life.

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

[From the New York Times, Jan. 31, 1973]

WILLIAM SAFIRE, A NIXON AIDE, TO JOIN THE TIMES AS COLUMNIST—SPEECH WRITER WILL PRODUCE TWO ARTICLES A WEEK FOR OP-ED PAGE

William L. Safire, a special assistant to President Nixon, will join The New York Times as a columnist, Arthur Ochs Sulzberger, publisher of The Times, announced yesterday.

Beginning in April, Mr. Safire, a speech writer for Mr. Nixon, will write a column twice a week for The Times. It will appear on the Op-Ed Page and be distributed by the New York Times News Service to its 225 American and 137 foreign subscribers.

"I am delighted that Bill Safire has decided to join The New York Times," Mr. Sulzberger said. "He will bring to us a new and different point of view, sharpened by his recent years in the White House.

"I think the readers of The Times and of its news service will be more than well served by this fresh new voice in American journalism."

"REGRET" FROM NIXON

In Washington, Gerald Warren, a deputy White House press secretary, said the President "is accepting with deep personal regret the resignation of William Safire."

Mr. Safire, 43 years old, is an author and former public-relations executive. He has been a member of the President's staff since the beginning of the Nixon Administration.

In the last campaign, he specialized in writing the speeches that dealt with Mr. Nixon's political philosophy.

Mr. Safire has worked on five campaigns for Mr. Nixon, and has accompanied him on two European trips. He also brought Mr. Nixon, then the Vice President, and Soviet Premier Khrushchev together in Moscow in 1959 in their famous "kitchen debate." Mr. Safire was a public-relations man at the time.

Mr. Safire has long been associated with Republican politics. In 1952, he directed a rally in Madison Square Garden for Gen. Dwight D. Eisenhower. He headed a division of volunteers for Mr. Nixon in 1960, and he directed the advertising for the Republican City Committee here in 1961.

He was deputy campaign manager for Senator Jacob K. Javits in 1962 and he supervised public relations for the New York City Rockefeller for Governor campaign in 1964.

From 1955 to 1960, Mr. Safire was vice president of Tex McCrary, Inc., a public-relations concern in New York. He left to become president of Safire Public Relations, Inc., which he left to join the 1968 campaign.

He wrote "The New Language of Politics," which was published in 1968 and reissued last year. He wrote "The Relations Explosion" in 1962, and was co-author of "Plunging into Politics" in 1964.

COINED "NABOB" PHRASE

In 1970, Mr. Safire was detached from Mr. Nixon's staff to write speeches for Vice President Agnew. Among other things, he coined the phrase "nattering nabobs of negativism."

He has also contributed in the past to The Times Op-Ed page and to The Sunday Times Magazine.

Mr. Safire attended Syracuse University and began his career in 1949 as a reporter for a column in The New York Herald Tribune. He was a correspondent for WNBC–MNBT in Europe and the Middle East, and an Army correspondent from 1952 to 1954. In 1955 he was a radio-television producer for WNBC in New York.

Mr. Safire is married to the former Helene Julius.

THE VIOLENT ATTACK ON SENATOR STENNIS LAST NIGHT

Mr. THURMOND. Mr. President, I believe I share the feelings of all the Members of this body when I say that we are both saddened and outraged by the violent attack on Senator STENNIS last night. I know that we are all saddened and outraged, but I doubt that we are shocked. Indeed, a great part of the tragedy of this incident lies in the fact that its occurrence is not so far out of the ordinary experience as to create shock.

Most probably, this crime is one more in the large number of violent crimes which are occurring all over the Nation, particularly in the large cities. The papers are daily filled with incidents similar to this and it is the public visibility of the victim, as well as his closeness to those of us in the Senate, that makes this criminal assault both more noteworthy and more disturbing than numerous similar crimes which occur so often.

Mr. President, there is also the possibility that the attack upon Senator STENNIS was not an ordinary criminal assault, but that his identity was known to his assailants and may have been a motive in his attack. Even if this was the case, it is still difficult to say this was shocking. John F. Kennedy, Martin Luther King, Robert F. Kennedy, George Wallace—as the list of public figures who have been the victims of violent assault in this country lengthens, the shock that accompanies each new incident lessens as our senses become tragically dulled to the horrors of such crimes.

Whether the attack upon Senator STENNIS was in a category with the thousands of similar criminal assaults which occur daily in the United States, or whether his identity was known to his attackers, the crime was heinous, and I hope it will sufficiently arouse the Members of Congress to initiate action promptly to strengthen our criminal laws and bring an end to the violence from which no one is immune.

We are all familiar with the record of the Supreme Court several years back when such decisions as Mallory and Miranda and Escobedo shackled our law enforcement officers in their efforts to apprehend criminals and impeded the prosecutors in their efforts to convict criminals. Tragically, these decisions came at the very time when our Nation was experiencing a dramatic increase in crime. Fortunately, the Congress and the courts, particularly in the last 4 years, have indicated a trend against the permissive attitudes toward violence. Recent decisions and acts of Congress have tempered the excesses of previous court rulings; however, this country is still not free of the crime wave which these earlier decisions encouraged. We have only to look to the recent rape trial here in the District of Columbia in which a confession was not admitted into evidence and the guilty assailant went free.

Mr. President, I hope the Congress will act with dispatch and good judgment to strengthen further our criminal laws and to encourage the States to do likewise. I have found from my experience, both as a lawyer and as a judge, that the greatest deterrent to crime is swift apprehension and sure punishment. We should certainly consider, carefully and seriously, legislation to restore capital punishment for certain crimes. In addition, inasmuch as we in the Congress are responsible for the criminal laws of our Nation's Capital, where the assault on Senator STENNIS took place, we should carefully review and strengthen the criminal laws for the District.

With this in mind, I introduced a bill on January 4, 1973, to restrict the carrying of concealed weapons in the District. This bill would raise the penalty for carriers of concealed weapons to $1,000 and imprisonment for not less than 6 months. This is but one step in the right direction. Washington Police Chief Jerry V. Wilson reported that in his judgment—

> The first step on the road to alleviating the critical handgun problem in the Nation generally, and in the District of Columbia specifically, is the creation of a public awareness that carrying a pistol on the street is a crime of the first magnitude, which, upon conviction, will result in more than a slap on the wrists.

I am contacting the chairman of the District of Columbia Committee to urge prompt consideration of this and all legislation that would deal with the increasing amount of crime in the District of Columbia.

Mr. President, in addition, I think we should realize that many Federal judges, particularly those appointed during the era when permissiveness reigned, show an unfortunate penchant to favor the defendant in criminal cases. The Congress should consider legislation which would provide for either the reappointment or reconfirmation of Federal judges periodically, such as every 6 years.

In summary, Mr. President, let us not allow the attack upon Senator STENNIS to become merely one more statistic or one more headline. I strongly recommend that Congress take action on legislation to bring an end to the era of criminial violence, which is yet with us, and to review continually the criminal statutes and court decisions so that once again the scales of justice will be in balance.

Mr. BIBLE. Mr. President, I am absolutely appalled at the street robbery and shooting last evening of my dear friend and distinguished colleague, Senator JOHN STENNIS.

I spent the early part of last evening with Senator STENNIS at the National Guard Association reception at the National Guard Memorial. I think we left that building at 1 Massachusetts Avenue at about 7 o'clock. Shortly afterwards this very unfortunate shooting occurred. He was his usual gracious, attentive, vigorous self we all know so well, and I left him only a short while before the tragic incident he encountered outside his home.

JOHN STENNIS is without question one of our Nation's great Senator-statesmen. The Senate is enriched by his leadership. He is also a warmly human person and a man of remarkable physical stamina and vigor. I pray that his strength will carry him through this ordeal.

My heartfelt sympathy goes out to the Senator's good wife, Coy. I pray for JOHN STENNIS' early and complete recovery.

Mr. GURNEY. Mr. President, the whole Nation was shocked to learn of this tragic, senseless, brutal shooting yesterday evening of our distinguished colleague from Mississippi, Senator JOHN STENNIS. I am sure I speak for all my colleagues when I wish him the speediest possible recovery and a quick return to his duties here in the Senate.

It is, indeed, a sad commentary that a U.S. Senator should be gunned down right in front of his own home here in the Nation's Capital. The two young punks responsible—and that is the most charitable term I can think of for them—obviously have no respect for the law, or even for life itself. How they could gun down a man whom they had already robbed is simply beyond me, but let us hope that they will be quickly found and brought to justice.

No matter how much progress we have made in fighting crime here in Washington, the job is not complete until people can go home at night in relative safety. Just as Washington has a special responsibility to the Nation to see that the people's representatives are adequately protected, so do we here in Congress have the responsibility to see that

the city has the wherewithal to do the job. This tragic incident indicates that somewhere along the line, something is not being done that ought to be done.

First, it may well be that we need still more police and law enforcement equipment here in the District. If so, let us not wait until another tragic incident like this to act. Second, we should make sure that, once criminals like these are caught, justice be quickly but fairly dispensed. If that means we need to make further improvements in our system of criminal justice, then let us go ahead and make them. And third, we should consider—as a deterrent—the possibility of tougher penalties for those who commit crimes with a gun.

To that end, I am today introducing a bill to provide for mandatory sentence of an additional 10 to 25 years imprisonment for anyone who uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or carries a firearm unlawfully in the commission of such a felony. Furthermore, this additional penalty could not be made subject to suspension, probation, parole, or reduction for good behavior, nor could it run concurrently with the term of imprisonment imposed for the basic crime. This type of legislation is badly needed, and if there is any good to be derived out of what happened last night, let us hope it will be to arouse public opinion about the need for stricter penalties for those committing a crime with a gun.

However, we must not hold institutions or society totally responsible. It was two individuals who did this deed and they must bear ultimate responsibility for their actions. Only by throwing the book at punks like these—by handing out the stiffest possible sentences—can we discourage others from trying the same thing on other poor, innocent victims, I would hope that no leniency would be shown these two gunmen, and that no one would expect leniency to be shown—for any reason.

For 26 years now, JOHN STENNIS has served in the Senate with the greatest distinction. As chairman of the Senate Armed Services Committee, he has a great responsibility and for many years he has fulfilled it well. Yet, now, two misguided criminals have deprived the Nation—for a while at least—of his valuable services. That is the Nation's loss, as well as being a personal tragedy. I would hope all Americans would join with me in extending best wishes to the Senator and his family at this time of crisis. We need him and hope to see him back at his desk as soon as possible.

Mr. CHURCH. Mr. President, on this occasion I wish to extend my heartfelt sympathy to the members of the family of Senator STENNIS who was so brutally attacked last evening, and to express my steadfast hope that the Senator recovers from that assault.

The first year I entered the Senate I recall, with pleasure, attending a hearing conducted by Senator STENNIS in my State. After the hearing, there was a luncheon and the Senator recounted with mirth that one of those who had participated in the hearings, one of the witnesses, had said to him afterward that this was the first time he had ever heard the business of the Nation conducted in the southern language. So often since I have heard the business of the Senate, indeed, some of the most important bills to come before the Senate, conducted in the southern language through the astute floor management of the distinguished Senator from Mississippi.

I have come to admire him greatly, to take pride in his friendship, and I want all of his family and loved ones to know that my hopes and my prayers for his recovery are with him today. He is a man who reflects so much credit on the Senate. Never does he take the floor but with the strongest of convictions and the highest of purposes. He has served his State and the country exceedingly well and we can ill afford to lose him.

Mr. JAVITS. Mr. President, the shocking and senseless assault last night upon Senator STENNIS must once again impress upon us how life in our cities is constantly shattered by the gunfire of criminal assailants. Astonishingly, these are commonplace and even almost daily occurrences everywhere in our country; highlighted here by the distinction of the victim in this case and the esteem and affection in which he is held.

Our prayers are with Senator STENNIS and his family for his quick and full recovery as they suffer through what all too many of our fellow citizens have suffered, also, as a result of the increased rate of violent crime throughout our society.

Shocking as it may seem in the wake of these daily tragedies, it is hardly more difficult for anyone—be he madman, murderer, or petty thief—to obtain some sort of gun today than it was at the time of the assassination of President Kennedy or, for that matter, the assassination of President Lincoln. In recent years Congress has passed some important gun control legislation, but we have yet really to come to grips with this critical and complex problem.

Each year more than 20,000 citizens are killed and 200,000 are maimed or injured by guns. Between 1964 and 1972, armed robberies increased 230 percent, with about 63 percent of these robberies committed with guns; 65 percent of all murders in this period were committed with guns. Too often, the handgun is the instrument of death—easily obtained and concealed, it was responsible for the murder of 94 policemen in 1971.

Accordingly I am again this year, as I have in the past, supporting legislation that would provide for the licensing of all handgun owners and for the registration of all handguns.

Are any of us ever safe from the gun obtained by means we ought to make unlawful?

The answer, tragically, must be no. It is time to stop the bloodshed caused by the criminal use of this weapon. It is time to eliminate, as far as we are able, the fear that handguns spread.

I hope that this most recent occurrence will change the views in both the Senate and House on gun-control legislation. The lack of such legislation is responsible for a heavy quotient of these terrible occurrences.

Mr. EAGLETON. Mr. President, I am horrified, as everyone must be, at the brutal shooting of Senator STENNIS yesterday evening.

At the age of 71, Senator STENNIS is a stronger man in body, mind, and spirit than many men of fewer years. I pray that that strength will see him through the next critical hours and days.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Joint Economic Committee:

To the Congress of the United States:

As predicted, 1972 was a very good year for the American economy.

From the end of 1971 to the end of 1972, total output rose by about 7½ percent. This is one of the largest 1-year increases in the past 25 years. This growth took place in a largely peacetime economy; it was not achieved by a warfed, inflationary boom. In fact, real defense spending declined 5 percent during the year. More important is the fact that the big increase of production in the year just ended was accompanied by a reduced rate of inflation. Consumer prices increased a little more than 3 percent from 1971 to 1972—a far cry from the runaway inflation rate of 6 percent that confronted us in 1969.

A year ago, looking ahead to 1972, I said that the great problem was to get the unemployment rate down from the 6-percent level where it was in 1971. During 1972 the rate was reduced to a little over 5 percent. We should get this down further, and expect to do so, but what was accomplished was gratifying. It is especially significant that the total number of people at work rose by 2.3 million from 1971 to 1972, the largest 1-year increase in 25 years.

Everything was not ideal in 1972—in the economy any more than in other aspects of our national life. Rising food prices were a major concern. The U.S. balance of trade with other countries did not improve as we had hoped. But all-in-all it was a very good year.

The economic performance of 1972 owed much to sound and forceful Government policy. The history of this policy goes back before 1972, and back before the dramatic moves taken on August 15, 1971. It goes back to the decision made in 1969 to bring to an end the dangerous inflation that had started in the mid-sixties. The decision was carried out by slowing down the rise of Federal spending and continuing the temporary tax increase that had been enacted in 1968 and by tightening monetary conditions. As a result, much of the cause of the inflation was removed and the rise in the cost of living was moderated. Without these steps, the subsequent success of price and wage controls would have been impossible.

Curbing inflation and cutting back on defense production necessarily involved a downturn in the economy and a rise of unemployment. To keep this from going too far, fiscal and monetary policy shifted in an expansive direction in 1970. And to speed up both the decline of inflation and the recovery of the economy, I announced the New Economic Policy on August 15, 1971. Temporary controls were imposed on prices, rents, and wages. Taxes were reduced. A little later we moved to stimulate the economy further by boosting Government expenditures in the first half of 1972, mainly by bringing forward expenditures that would have been made later.

The policies that began in 1969 contributed to the economic progress so visible in 1972. But Government policies alone did not do the job. Credit goes largely to a strong private economy and to the private citizens who cooperated in raising productivity, maintaining industrial peace, and conforming to the standards of the control system. The Government helped to create conditions in which private people could adapt to a growing economy that was far less defense-oriented and much less inflationary. But it was the individual American who made the adaptations.

The immediate economic goals for the domestic economy in 1973 are clear. Output and incomes should expand. Both the unemployment rate and the rate of inflation should be reduced further, and realistic confidence must be created that neither need rise again.

The prospects for achieving these goals in 1973 are bright—if we behave with reasonable prudence and foresight. By all signs a vigorous economic expansion is underway and will continue during the year. This will raise output and employment and reduce unemployment. The problem, as far as can now be foreseen, will be to prevent this expansion from becoming an inflationary boom.

That is why I put restraining Federal expenditures at the top of the list of economic policies for 1973. Nothing is easier or more pleasant, at least for a bureaucracy, than to spend money. But beyond some point, which our budget plans already reach, everything that the Government gives out with one hand it must take back with the other, in higher taxes or more inflation or both. Spending proposals must be looked at in this way, by asking whether they are worth either of these costs. Much Government spending fails this test.

I am proposing a budget with expenditures of $250 billion in the current fiscal year—an increase of $18 billion from last year. I am proposing a $19 billion increase for next year, to $269 billion. Although those are large totals and large increases, they reflect a sense of responsibility and discipline. I urgently seek the cooperation of the country and the Congress in staying within my budget proposals.

Only by holding the line on Federal spending will we be able to reduce the inflation rate further in 1973. Productivity should still be rising strongly. Inflationary expectations have been subdued. Workers have been experiencing large gains in their real incomes and so the pressure to catch up will be less than it was earlier. Anti-inflationary forces are at work, but it will be necessary to keep our healthy expansion from becoming an overheated boom.

The system of wage and price controls in effect during 1972 helped bring about a combination of less inflation and more production. But it is not the best system for 1973. After intensive consultation with all parts of the American society we have concluded that controls should be substantially modified. There are several problem areas—food, construction, and medical care costs—where special efforts at restraint are needed, in some cases more intense than last year.

In the economy at large there is need to establish more firmly a pattern of behavior consistent with reasonable price stability. At the same time our own experience and the experience of other countries demonstrate that as controls continue, unless they are suitably modified, red tape multiplies, inequities increase, interferences with production and productivity become more severe, and the possibility is enhanced that prices will explode when controls are lifted. Therefore, we are modifying the control system in several ways.

We are setting forth standards of reasonable price and wage behavior to which we ask business and labor to conform. Private economic units will be able to determine by themselves whether price or wage increases are within the standards or not. They will not require advance approval from the Government. However, the Government will maintain the legal authority, the practical capacity, and the will to intervene where necessary to stop action that is unreasonably inconsistent with the standards. I am asking Congress to extend the Economic Stabilization Act for 1 year, to April 30, 1974, to continue the authority. There should be no doubt about the fact that the authority will be used where needed.

An essential part of our anti-inflation program must be an increase of food supplies to restrain increases of food prices to bring about reductions where possible. The combination of natural occurrences holding down food production in the United States and abroad with rising consumers' incomes at home caused a sharp increase in food prices last year. These same forces will be at work in the early part of this year. But we have taken steps to increase food supplies. Quotas which previously limited the import of meat have been suspended. Restrictions on the acreage planted to major field crops have been relaxed. An increased amount of dried milk is being allowed into the country. Subsidies on agricultural exports have been eliminated. Grazing of cattle is being permitted on acreage diverted from crop production. We have established new machinery in the Federal Government to assume that high priority is given to holding down food prices.

Restraint in budget policy, the new system of cooperative price and wage controls and special efforts to increase food supplies, coupled with the productivity and vigor of the private economy, should make 1973 another year in which inflation and unemployment decline and output rises. But what is at stake in the policies of 1973 is more than economic performance in 1973. What is at stake is whether we can make 1973 the prelude to a sustained period of growth and stability in a free economy. Since 1968 the Government and the economy have been largely absorbed in the negative task of correcting the destabilizing consequences of the financing of the Vietnam war. That period is almost over. Now we can stop putting out fires and turn to building a better economic order.

We must develop more reliable and responsible attitudes and methods for dealing with the Federal budget, so that it is not perpetually on the margin of an inflationary explosion. We must prepare for the end of wage and price controls, and be willing to show the same courage in taking them off as was shown in imposing them. We must weed out the restrictive effects of the large number of other economic controls exercised by the Federal Government, most of them having their origins decades ago, and many of them interfering with productivity and production. And we must strengthen the forces of competition in a vigorous free-enterprise economy.

Nowhere is the need to make 1973 a year of economic reform more apparent than in our international relations. Our actions of August 15, 1971, put the world on the path of negotiation for improvement of the international economy. Last year we made proposals for the reform of the international financial system, and these proposals are now the subject of discussion by high-level officials of the member countries of the International Monetary Fund. This year we expect to enter negotiations on the subject of trade.

We want the American people to be able to buy those foreign goods and services that are better, cheaper, or more interesting than our own. That raises the American standard of living. We want our people to be able to invest abroad when that is the most profitable thing to do. But we also want the American people to be able to pay for these purchases and investments in the way that is best for us. That means, first, that we must be able to pay by selling abroad the things that we produce best, and selling them on the best terms that we can freely obtain. Second, it means that we must be able to pay in a way that is sustainable so that we are not confronted with the need for sudden and possibly painful adjustments.

Existing arrangements are not favorable to us in either respect. We have been buying from abroad in rapidly increasing amounts, and that has helped the American people. But our exports, with which we seek to pay for these imports, have been subject to high barriers, particularly in the case of our agricultural products. We have not been able to sell enough to pay for our overseas expenditures, and so we have had to pay by incurring more and more short-term debts abroad. This is not a situation that can go on indefinitely; its sudden ending could be disruptive. Therefore we want to bring about those reforms that will permit us to earn our way.

Our proposals have been, and will be, put forth in the U.S. national interest. But this is not contrary to the interest of other countries. International compe-

tition is shifting from the military and political arenas to the economic. This is a great advantage, because in economic competition every participant can win—there need be no losers. The effort of each nation to produce and sell what it can do most efficiently will benefit others. This is the fundamental belief underlying our proposals for reform and the fundamental reason for thinking that a satisfactory agreement will be reached.

* * * * *

The general prediction is that 1973 will be another very good year for the American economy. I believe that it *can* be a great year. It can be a year in which we reduce unemployment and inflation further and enter into a sustained period of strong growth, full employment, and price stability. But 1973 will be a great year only if we manage our fiscal affairs prudently and do not exceed the increases in Federal expenditures that I have proposed. This is the practical lesson of the experience from 1965 to 1968, when loose fiscal policy turned a healthy expansion into a feverish boom followed by a recession. I am determined to live by this lesson. And I urgently appeal to the Congress to join me in doing so.

RICHARD NIXON.

JANUARY 31, 1973.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield five minutes to the distinguished junior Senator from Alabama (Mr. ALLEN).

THE HOLDUP AND SHOOTING OF SENATOR STENNIS

Mr. ALLEN. Mr. President, the senseless shooting of Senator JOHN STENNIS of Mississippi has shocked the Nation. It is distressing that such a tragedy should befall this great American, whose distinguished services in the U.S. Senate are so much needed by our country in these critical times.

Mr. President, perhaps there is no indispensable man. Perhaps there is no irreplaceable man. But Senator JOHN STENNIS comes just as near to being an indispensable man in the U.S. Senate and an irreplaceable man in the U.S. Senate as it is possible for a Senator to be.

Mr. President, the Senate needs Senator STENNIS. His great State of Mississippi needs him. The country needs him. The free world needs him. Certainly the administration needs him to steer through Congress bills that are necessary to provide for an adequate defense for this country.

Senator STENNIS sets an example for all of us of dedicated public service. We need his moral force in the Senate and in the country. We need his moral leadership.

The attributes of Senator STENNIS are legion. I would set in the forefront of his attributes the word "character," the word "patriotism," the word "ability," and the word "dedication."

Mr. President, many voices and hearts have been lifted in prayer to God spontaneously, to pray for God's healing hand, that He might bring Senator STENNIS back to health and to a return to his duties here in the U.S. Senate.

Senator STENNIS is my dear friend, and a true friend of the State of Alabama, frequently referring to himself as "Alabama's third Senator." My fellow Alabamians join me in prayer to God for his early and complete recovery.

I thank the distinguished Senator from West Virginia for yielding.

THE CONTINUING WAR ON THE STREETS

Mr. ROBERT C. BYRD. Mr. President, the unspeakable crime in which our honored colleague, Senator JOHN STENNIS, of Mississippi, has been gravely wounded should shock the conscience of every Member of this body and of all American citizens. In spite of all the reassuring statements concerning the publicized reduction of crime in the Nation's Capital, it becomes appallingly apparent once again that no one is safe on the streets of the District of Columbia.

My sympathy, and the sympathy of every Member of the Senate, goes out to Senator STENNIS and to the members of his family. We offer our prayers for his swift and complete recovery. No more respected, no more capable, no more decent man has served in this Chamber than he.

The prominence of the victim, Mr. President, and the wide amount of public attention being given to his robbery and wounding serve to underline an ironic fact: Senator STENNIS is but one of hundreds who have been so accosted on the streets of the Capital City of the leading Nation of the world. The poor and obscure victims of violence seldom have their tragedies brought to public notice. It is a shameful and heavy burden that we bear for the conditions which have been permitted to develop in this once safe and civilized community.

The terror which stalks this city, Mr. President, is but the end product of the failure of our system of justice. Private citizens of all races who live here, visitors who come to Washington, and officials of this and other governments who go about their duties here will continue to be attacked and to have their lives endangered so long as hoodlums are permitted to maraud at will and to go unpunished for their misdeeds.

This ghastly and senseless and unprovoked attack upon Senator STENNIS should shatter any premature illusions that anyone may have had that our much discussed war on crime is yet being won. The Senator from Mississippi is not a vindictive man, but the tragedy which has befallen him should serve to stir in all who have a responsibility for law and order in the District of Columbia a new resolve to make this city once again a safe place for all who live, or work, or visit here.

To that end, I express the fervent hope, in closing these brief remarks, that the Metropolitan Police and the Federal Bureau of Investigation will swiftly apprehend those responsible for this sickening thing and that the courts will deal adequately with them.

Mr. President, we have been very concerned, and rightly so, about the war in Vietnam, from which we have now been able to extricate ourselves, or will within the next few days. But yet it remains a fact that the war on the streets of America continues unabated. As I have already indicated, things such as that which happened last night to one of our most distinguished citizens and distinguished Senators go on in this city every night. Innocent victims—men, women, old people and young people—are accosted, robbed, raped, beaten, and murdered in their homes and on the streets of the Nation's Capital.

I am in favor of doing everything we possibly can to remove the causes of crime, if we can determine what they are, and to reduce the opportunities and risks of the commission of crime. I am in favor of beefing up police forces. I am in favor of additional street lighting. I am in favor of recompensing, as much as we can, the victims of crime. But I think that until we get down to the inevitable fact that the criminal must himself be made to realize that he is going to be punished severely and promptly for the commission of crimes, we are never going to do a great deal about this problem.

Mr. President, I personally feel that there ought to be a law, which would provide that any individual who commits a felony in the District of Columbia, or on any Federal installation, and who uses a gun while he is acting in the commission of such felony, be given a mandatory 20 or 25 years in prison without probation or parole and, further that if, in the commission of such felony, a death results, there be a mandatory death sentence applied.

The Supreme Court has gone a long way toward eliminating the death penalty but it has not completely closed the door. One of the things—probably the thing—that appeared to create the greatest problem for the Supreme Court in its decision was that the death penalty is not applied uniformly and evenhandedly across the board. But, if made mandatory in the commission of certain crimes, the Supreme Court would possibly not find the death penalty to be unconstitutional.

Thus, Mr. President, I think there should be a mandatory death penalty here. It would seem to me that that would be the one sure way to provide a deterrent to those who are prone to roam the streets of the Federal City committing rapes, armed robberies, murders, and other acts of violence against helpless victims. I see no other way to greatly reduce these heinous crimes.

I am not speaking out of the emotions of the instant. I have advocated the death penalty all along. But I think that the crime that occurred last night emphasizes the need for strong action on the part of the Federal Legislature in dealing with such crimes.

THE ROLE OF COAL

Mr. ROBERT C. BYRD. Mr. President, the Thursday, January 18, edition of the Mullens, W. Va., Advocate carried an interesting and informative edi-

torial entitled "Coal Rediscovered As Energy Source."

In the editorial, writer David Cline talks of the possibility of coal playing a major role in solving the energy crisis now facing the United States. And he says that:

The only real answer to this dilemma is in the technology in which Americans pride themselves. A crash program met with the fervor shown in our outstanding space program might possibly develop the cleaning units for coal and solve the energy crisis.

I am in total agreement with Mr. Cline, and have consistently urged over the past several years that such a crash program be initiated. Relying on imported energy fuels to solve our domestic crisis is simply not feasible, from either an economic or security standpoint. And every step we take toward developing nuclear energy seems to take us one step further away from completing that development.

We know we have enough coal to meet our energy needs. And we know the problem that exists in coal—namely, coal with sulfur does not burn cleanly enough to meet our antipollution standards. The logical and practical step, then, would be to develop clean-burning coal.

I agree with Mr. Cline that this should be given the highest priority, and I plan to continue my efforts to see that it is.

Mr. President, I believe Mr. Cline's editorial is worth the attention of the Senate. I ask unanimous consent that the editorial be printed in the RECORD.

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

COAL REDISCOVERED AS ENERGY SOURCE

(By David Cline)

The subject of coal has been big news over the past week and, for a change, it has been mostly good news. It began to look as if every prophet of doom was prepared to sound the death knell for coal and we all know that when the bell tolls for coal, it also tolls for West Virginia.

But the gloom seemed to lift this week for several reasons not the least of which was the indication that President Nixon has big plans for coal in solving the energy crisis. It seems the more critical the picture becomes for petroleum and natural gas, the more government and industry begins to look favorably at our plentiful supply of coal. The many problems encountered in adopting nuclear energy to widespread use have pushed that possibility farther into the future.

This enthusiasm for coal, however, does not mean that our black gold will suddenly leap into the lead of the energy sweepstakes. There are still several serious roadblocks to be contended with if coal is supposed to reach its full potential.

It is easy to picture one's self as an ecologist when it involves someone else's livelihood. The fact is that coal, at least coal with sulphur, burns dirty and is truly a pollutant. Much of the coal that the nation so desperately needs, and we so desperately need to sell, has been all but outlawed in several parts of the country. Anti-pollution laws forbid the use of certain types of coal without certain cleaning elements in its use and thus-far these elements have not been perfected. While the federal law allows the use of such coal until 1977, state and local governments have already put many of the restrictions into effect.

There is, of course, the possibility that the restrictions may be temporarily rescinded to allow coal to meet the immediate needs of the nation's energy problems. This is an answer and it would help the economy of West Virginia, but we cannot honestly say that this is the answer we want.

In our small way we have fought long and hard for protection of the environment and we cannot forego firm ideals for the sake of expediency.

Our hope seems to lie in one direction. The only real answer to this dilemma is in the technology in which Americans pride themselves. A crash program met with the fervor shown in our outstanding space program might possibly develop the cleaning units for coal and solve our two big problems at once. The cleaners would protect the air and allow the use of coal. The widespread use of coal would again insure the prosperity of West Virginia.

Another aspect of the use of coal is moving from the experimental stage to the brink of public use. It is called Coal Gasification. Just as its name implies, it is a process for converting coal into a gas. This gas, we are told, would be as convenient and non-polluting as the natural gas we now use.

Two major projects for the construction of coal gasification plants have been approved by the federal government, one in Indiana and another in Alabama. We are, of course, pleased that the plants are underway, but we must confess that we do not really understand why they are being constructed so far from the major coal fields. The coal is already here and, because this area has a large natural gas industry, there is an extensive network of pipelines heading in all directions from the state. We must admit that we do not complain too much on this point since the transportation of coal insures the heavy use of the railroad which employs many people in West Virginia.

Should the coal gasification program really blossom, it would be a boon to the industries of coal, gas and railway. This would not only be a key to the solution of the energy crisis, but would create and maintain a great deal of employment.

We are, by no means, out of the woods yet, but the renewed interest in coal does brighten a picture that was becoming increasingly dark. If at the same time a way can be found to control the pollution problems, we West Virginians may be able to have our cake and eat it too.

ORDER FOR RECOGNITION OF SENATORS BROCK, HELMS, HANSEN, SCOTT OF VIRGINIA, AND McCLURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, following the recognition of Senators for whom orders have already been entered, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated:

Senators BROCK, HELMS, HANSEN, SCOTT of Virginia, and McCLURE.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Hawaii (Mr. FONG) is now recognized for 15 minutes.

(The remarks Senator FONG made at this point when he introduced S. 640, amendment of the Taft-Hartley Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

(The remarks Senator CHURCH made at this point when he submitted Senate Resolution 51, dealing with funds for the Subcommittee on Aging, are printed in the RECORD under Submission of a Resolution.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business, not to extend beyond 2 p.m., with statements limited therein to 3 minutes.

ORDER FOR RECOGNITION OF SENATOR BROOKE TOMORROW

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that on Thursday following the previous orders that have been entered Senator BROOKE be recognized for not to exceed 15 minutes.

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

(The remarks Senator HUDDLESTON made at this point when he introduced Senate Joint Resolution 45, dealing with the erection of a monument to honor U.S. forces who served in the Vietnam War, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the joint resolution (S.J. Res. 26) to amend section 1319 of the Housing and Urban Development Act of 1968 to increase the limitation on the face amount of flood insurance coverage authorized to be outstanding.

LEAVE OF ABSENCE

Mr. ROBERT C. BYRD. Mr. President, in accordance with paragraph 1, rule V, of the Standing Rules of the Senate, I have been asked by the distinguished senior Senator from Indiana (Mr. HARTKE) to request a leave of absence from the Senate during the remainder of this week because of the death of his mother.

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

AVIATION SAFETY AND THE FAA

Mr. ROBERT C. BYRD. Mr. President, the distinguished senior Senator from the State of Indiana (Mr. HARTKE) is unable, as I have earlier stated, to attend today's session because of the death of his mother.

At his request, I ask unanimous consent that a statement which he had prepared to be read on the floor of the Senate today be placed in the RECORD at this point.

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

AVIATION SAFETY AND THE FAA

(By Senator HARTKE)

Aviation is a major national asset. Far more than a pleasure conveyance, airplanes

are vital to the Nation's business and economy. As our dependence on the airways grow, we are rapidly reaching the point where our needs will far exceed our ability to provide safe air transportation.

The decade of the 1960's saw a tremendous expansion of the Nation's aviation system. Aircraft operations at FAA control tower airports increased by 112 percent between 1960 and 1969, and the number of aircraft handled by FAA air route control centers increased by 111 percent.

By 1980, the FAA predicts that demand will result in a 300-percent increase in these activities. Yet it is clear to every impartial observer that the airways will simply be unable to cope with this traffic safely.

Despite the uniform predictions of crisis, the FAA has been content to proceed at a snail's pace to meet the needs of an expanded aviation system. In many ways, this Federal bureaucracy is a prime example of how not to regulate an industry. Charged with the responsibility of promoting aviation safety, the FAA has been too slow to perceive problems, too slow to recommend corrective action, and too lax in enforcement.

Just as Congress provided for a national highway system, so must we provide for a national aviation system. There is a Federal role in this endeavor, but it cannot be performed by an agency which is mired in its own paperwork and a prisoner of the interests which it is designed to regulate. In the 14 years since it was created, the FAA has been unable to act with the requisite speed and foresight which are required if we are to avoid carnage in our Nation's airways.

During the coming weeks, I intend to report to my colleagues in the Senate and to the public on some of the major problems facing aviation in America and on some of the major problems facing aviation in America and on the failures of the Federal Aviation Administration. These reports will include comments on the following areas:

1. Creation of the FAA

a. Reasons for its establishment;

b. Public responsibility placed upon the FAA;

c. How well has the FAA met its responsibilities?

2. The role of the FAA within the Department of Transportation

a. Organization of the FAA within DOT;

b. Comparison with operations of FAA as an independent agency;

c. Relationship of FAA with the National Transportation Safety Board, the Civil Aeronautics Board and other Federal agencies which have aviation responsibilities;

d. Can the organization of the FAA within DOT be improved?

3. General and "For Hire" Aviation

a. What has the FAA done to improve the training and regulation of pilots and other certificated airmen?

b. What are the standards of aviation training schools? Should they be improved?

c. What has been done to tighten regulation and surveillance of charter aircraft?

d. What has been done to improve surveillance of aircraft manufacturers?

e. Should general aviation pilots undergo periodic re-examinations?

4. Air Taxi operations

a. Need for upgrading standards for air taxi industry;

b. Need to improve short haul and rural air service.

5. Air Traffic Control and Collision Avoidance

a. What is the current status of air traffic control and collision avoidance systems?

b. To what extent do these systems meet the aviation needs of the future?

c. Has too much emphasis been placed on centralizing these systems within the FAA and/or on the ground?

6. Safety

a. What has the FAA done to implement the recommendations of the National Transportation Safety Board?

b. What timetable does FAA have on completing tests, in cooperation with NASA on possible problems associated with barometric altimetry systems?

c. What level of priority does this research have?

d. Is there any research underway on alternate systems?

7. Airports

a. What is being done to improve instrument landing systems at airports?

b. What is being done to lure commercial and general aviation traffic away from congested airports?

c. What other steps are being taken to alleviate airport congestion?

d. What is being done to integrate high speed ground transit with airport facilities?

e. Can underutilized military airports be given a role in civil aviation?

f. What is being done to reduce aircraft noise?

Mr. President, this list does not exhaust the areas which I believe must be investigated if this Congress is to undertake an adequate oversight investigation of the FAA. A detailed study along the lines I have recommended is long overdue, and I intend to do my best to assure that each of my colleagues knows of the problems and the dangers inherent in our Nation's aviation system before the crisis occurs.

THE ENERGY CRISIS

Mr. DOMENICI. Mr. President, I rise to concur in the sense of urgency about the national energy crisis as stated by Mr. RANDOLPH, Mr. FANNIN, and others on January 16. I specifically wish to speak on behalf of my support for the deregulation of natural gas sold in interstate commerce.

As a Senator from New Mexico, I represent a State which offers a maximum number of potential solutions to our country's worsening energy crisis—illustrated dramatically last week by a sharp cut in oil supplies to many populous Eastern States.

New Mexico has been a leader to the Nation in the development of nuclear energy—both in the theoretical and practical aspects of nuclear physics and as a source of uranium, which makes their application possible. It is also an outstanding supplier of fossil fuels—oil, natural gas, and coal, including coal for gasification. My State even offers exceptional opportunities for developing new and relatively untried energy sources—geothermal and solar energy, for example.

But New Mexicans are disturbed because, thus far, our Government's moves in this important area of energy appear to have been on a sporadic and ad hoc basis only.

One example of this lack of farsightedness is the Federal Power Commission's regulation of the price of wellhead gas—a policy which, unintentionally, of course, but nonetheless really has led to a decade of waste of a prime natural resource.

This body has already heard from the distinguished Senator from West Virginia (Mr. RANDOLPH) and from others, why our present policy is unsatisfactory. It discourages exploration for expanded domestic supplies of this necessary fuel and it forces us into reliance on undependable and enormously expensive sources outside our own boundaries.

Without being unduly critical of those who made this decision in the past, Mr. President, I recommend that natural gas at the wellhead be returned to our free enterprise system and that we move expeditiously and with imagination to a total attack on the problem of energy sources.

My language is strong because I believe this problem has become one of top priority for our Nation and the world.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 2 p.m. today.

Mr. TAFT. Mr. President, will the Senator withhold that motion?

Mr. ROBERT C. BYRD. Mr. President, I withhold that motion and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

(The remarks Senator JAVITS made at this point when he introduced S. 649, the Japan-United States Friendship Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

OVERSEAS PRIVATE INVESTMENT CORPORATION REBOUNDS

Mr. JAVITS. Mr. President, Mark Twain's celebrated response to the publication of his obituary—"The reports of my death are grossly exaggerated"—comes to mind over the impression spread around that the Overseas Private Investment Corporation—OPIC—was on the verge of "bankruptcy" because of Chile's expropriation of American copper properties 18 months ago.

In the aftermath of the confiscatory wave of July 1971, some felt that OPIC, launched a scant 6 months before, would never weather the storm.

As the Senate sponsor of OPIC, I am happy to report precisely the contrary. An article in the December 14 Journal of Commerce reviews OPIC's tribulations over the past 2 years and forecasts a sunnier future than is generally realized. Since OPIC programs will be under review by both the House Foreign Affairs Committee and the Senate Foreign Relations Multinational Corporations Subcommittee in the near future, I ask unanimous consent that the Journal of Commerce article be inserted in the RECORD at this point:

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

OPIC FORESEES REBOUND IN ITS INSURANCE ACTIVITY

(By Richard Lawrence)

WASHINGTON.—The Overseas Private Investment Corp., pictured in some reports as

on the brink of bankruptcy, actually is moving toward financial "independence."

The U.S. goevrnment agency, which underwrites U.S. private investors in over 90 developing nations, is gradually boosting its reserves and, if Congress only "returns" funds it took a few years ago from OPIC's predecessor, the aegncy says it could be self-sufficient," regardless of claims pending against it.

EXPECTS REBOUND

Meanwhile, OPIC, barely two years old, expects its insurance activities to rebound this year, after a depressed fiscal 1972. Possibly, it also will start underwriting American firms in Yugoslavia and Romania, for which it recently won congressional authority.

Beyond that, the administration may ask Congress to authorize OPIC insurance cover for other East European countries, perhaps including the Soviet Union.

OPIC, an outgrowth of the Agency for International Development's one-time Office of Private Resources, remains controversial on Capitol Hill, however.

For years, Sen. J. W. Fulbright, D-Ark., and other Senate Foreign Relations Committee members have questioned the wisdom of the U.S. Government financially backing American business abroad.

That kind of involvement, they have said, can lead to more political problems with the poorer nations.

CHILE EXPROPRIATIONS

The rash of Chilean expropriations of U.S. corporate affiliates has sharpened this suspicion. The claims resulting from the expropriations have put OPIC's still relatively small reserves in jeopardy.

Others in Congress, such as Reps. Otto Passman, D-La., and H. R. Gross, R-Iowa, also have been dubious of OPIC's role, if mainly for budgetary reasons.

Meantime, a Senate foreign relations subcommittee headed by Sen. Frank Church, D-Idaho, plans to take a closer look at OPIC next year in a probe of the political activities of U.S. multinational corporations.

Yet, OPIC stays in business and is expected to continue doing so unless it can be conclusively shown, as the labor unions now argue, that U.S. foreign investment is bad for the United States.

But, U.S. statistics seem to say, foreign investment really helps the U.S. balance of payments with the rest of the world, as it brings in rising sums of foreign income. Foreign investment also spurs U.S. capital goods exports, while helping establish a more general market for American products.

ASSESS RETURNS

OPIC now emphasizes that before approving insurance or a guarantee, it assesses the return to the U.S. of patential earnings, dividends, interest and royalties. (Insurance is issued on equity, guarantees on long-term loans.)

In justifying itself, the agency also cites an increasingly strong argument that Japan, Canada and West European governments are developing foreign investment insurance programs on their own to help their industries gain a bigger share of developing country markets.

OPIC incidentally. is critical of these countries for charging such relatively low premium rates, which it feels, smack of investment subsidies. West Germany, for instance, charges only one-half of 1 per cent, compared to OPIC's 1.5 per cent.

TIGHTENED UP POLICIES

Since taking office in early 1971, OPIC management has made a point of "tightening up" agency procedures. Rarely does OPIC underwrite investments in natural resources, and it is very careful in backing any unusually large project.

Soon after, Chile, Colombia, Bolivia, Ecuador and Peru agreed to the so-called Andean Investment Code, which some believe menaces foreign investors, OPIC stopped issuing new policies for investors in those five countries.

OPIC also began charging more for its policies, and it began a closer watch on its "exposure", country-by-country.

The agency now has over $7 billion in political risk insurance policies outstanding, with liabilities ranging from more than $2 billion in expropriation policies to about $1 billion in currency inconvertibility policies.

Less than $200 million of guarantees, which cover commercial plus political risks, are outstanding.

Just about half of all the outstanding political insurance has been issued to U.S. investors in Latin America, and a little over one-fourth has been for East Asian investment, particularly Korea, Taiwan, Indonesia, Thailand, and Singapore.

As of June 30, OPIC had 22 "recognized" insurance claims, totaling $215 million, pending against it. The two biggest claims were for $92 million from IT&T Corp. and $74 million from Kennecott Copper, both in Chile. OPIC's insurance reserves were $114 million, as the agency added $29 million of earnings in fiscal 1972.

In September, however, OPIC paid Anaconda an $11.9 million claim for the expropriated Exotica mine in Chile. OPIC does not recognize another $154 million Anaconda claim for two other Chilean mines.

But OPIC argues that Congress "owes" it another $85 million, comprising $50 million in earnings which Congress once transferred to the Agency for International Development and "the interest lost" during the 24 years that insurance earnings could not be invested.

Congress recently voted to "restore" $42.5 million of these funds, but it is due to review the issue, along with the entire foreign aid bill, in February. OPIC, meanwhile, promises to keep asking Congress to restore the money, no matter how long it takes.

If it can bring its insurance reserves to close to $300 million, OPIC should then be financially self-sufficient, officials say. If Congress cooperates, that could be achieved within another two years or so.

In fiscal 1972, OPIC wrote only about $600 million in political risk insurance, the smallest sum in many years, largely reflecting a sharp decline in Latin American activity. Only in Brazil, some Central American and Caribbean countries did OPIC's Western Hemisphere activity increase.

BACKLOG UP

But, officials report, the backlog of insurance applications is up—it was $3.3 billion as of June 30—and a larger amount of insurance is expected to be issued this fiscal year.

Meanwhile, the agency is instituting new programs—insuring small U.S. investors who buy stock in new projects it underwrites, coverage for U.S. constructors abroad, and reconnaissance and feasibility funds for small U.S. firms considering foreign investment.

Soon, OPIC may announce a more flexible premium rate-policy, whereby rates will vary according to the country and type of investment.

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE VISIT OF PRIME MINISTER HEATH

Mr. JAVITS. Mr. President, British Prime Minister Heath will be in Washington tomorrow and Friday to consult with President Nixon. The timing of this visit, the first official meeting between President Nixon and a Western European leader since President Nixon's reelection, is most fortuitous.

With the Vietnam cease-fire, the United States now hopefully will turn its foreign policy attention to mending our relations with Western Europe and Japan which are in a state of relative disrepair. It is also my hope that this bilateral summit will only be the first of several bilateral summits with leaders of the free world and that this bilateral summitry in turn could lead to a multilateral summit prior to the intensively difficult negotiations which will commence in the trade, monetary, and military areas in the course of this year.

The visit of Prime Minister Heath also takes place at a time when the international monetary markets are extremely shaky and when the dollar is under severe pressure. Unfortunately exchange controls also seem to be proliferating and press reports indicate that last week's Committee of 20 Deputies meeting on the reform of the international monetary system met with less than success. I was distressed to read that C. Jeremy Morse, the talented British chairman of the group of 20 indicated—according to press reports—that he did not know if governments are willing to put any new system into effect that would let the United States strengthen its balance-of-payments position. It is my hope that these reports are overly pessimistic and if they are not, that the meetings between Prime Minister Heath and President Nixon will give a new impulse to efforts to reform the international monetary system. The alternative to such reform could well be a retreat to the beggar-thy-neighbor policies of trade and currency controls which contributed to the world depression of the early 1930's.

The agenda for Prime Minister Heath and President Nixon is a full one and it is my hope that it will be a key building block leading to a successful "Year of Europe."

I ask unanimous consent that a fine article entitled "And Now, Speaking for Europe: Mr. Heath Can Demonstrate in Washington Next Week That a Britain in Europe Has Things To Say That Americans Need To Hear," which appeared in the January 27 issue of The Economist, of London, be printed in the RECORD at this point.

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

AND NOW, SPEAKING FOR EUROPE: MR. HEATH CAN DEMONSTRATE IN WASHINGTON NEXT WEEK THAT A BRITAIN IN EUROPE HAS THINGS TO SAY THAT AMERICANS NEED TO HEAR

It is a good time for the Prime Minister to go to Washington. Mr. Heath will see President Nixon next Thursday and Friday, a few days after the Vietnam ceasefire takes effect. The preoccupation of the Nixon Administration with the peace talks postponed the major tasks that lie before it this year: to

tighten the links of the Atlantic alliance and sort out the trade disputes that threaten to carve up the industrial world into three quarrelsome and self-seeking blocks. Now Mr. Nixon has clawed away, at least for the moment, the incubus of the war. He still has to try to persuade the isolationists and protectionists in Congress, and above all the trade unions, not to shut themselves up in a fortress America palisaded behind tariff barriers and import quotas.

Britain can help to provide some of the arguments that Mr. Nixon needs. The British Government held itself aloof from the emotional uproar that echoed around Europe during the bombing of Hanoi last month. Part of the reason for that calculated silence was the understanding that when Europeans describe America's commitments outside Europe as silly or wicked or simply irrelevant, they sound like Americans talking about European conflicts before 1941. It is not for an increasingly inward-looking Europe to tell the Americans not to bother about Asia. Any attempt to do so is liable to hasten a process of American withdrawal that could end by undermining Europe's own defences.

Mr. Heath now has some title to speak for the European community as well as Britain, although President Pompidou and Herr Brandt, edging closer together (see page 15), would have their ideas about that. But Mr. Heath must use his position within Europe to uphold the Atlantic relationship against the "third force" illusionists and the little Europeans, especially in Paris, who seem to think that the Americans will keep 300,000 men in Europe because it is in their own interests to do so even if the Europeans refuse to sort out a lopsided agricultural policy and lean towards a trading relationship with the rest of the industrial world that flouts free trade principles. Of course, the Americans themselves are far from being as free-trading as they like to make out. But if, for example, Concorde is in difficulties with the major American airlines, it is because they do not like its economics, not because the Administration has told the airlines not to buy it (see page 72).

Mr. Heath is in a position to mediate between America and Europe. There are the ties of history and culture between Britain and the United States that he likes to sum up as "the natural relationship." And British and American interests still seem to run parallel on a number of immediate issues. The two most fundamental are their common suspicion, or at least doubts, about the present course of Soviet policy in Europe; and the construction of a more stable international system of trade and payments. In particular, Britain and the United States have a common interest (which the Germans now seem to share) in modifying a system of support prices for European agriculture that favours Europe's peasants at the expense of consumers and world trade. Britain and America should also think about heading off a future scramble for sources of energy that would make the industrial countries look like old ladies tussling to get into a jumble sale.

And Britain, more than most members of the European community, retains an interest that matches the American one in the political future of the world outside Europe. The apparent thaw in east-west relations, and the chatter about strategic parity between Russia and America, have obscured the fact that the first of these powers is expanding and the second is contracting. Russia's naval expansion and its increasing influence in Asia and Africa suggest that the strategic balance is shifting in subtler ways. The small British presence in Malaysia and Singapore is an isolated token that Britain's strategic horizon still reaches beyond Suez; it has been welcome to the Americans, and Mr. Heath and Mr. Nixon both wish to keep the Australians in there too.

THE TROJAN HORSE

It will be argued that Mr. Heath can serve as an effective spokesman for Europe only if he does not leave his flank too exposed to the old gaullist accusation that a Britain inside the community would act as the Americans' Trojan horse. The French authorities, particularly prickly with their March election looming up, are bound to trot out the old complaint if Britain seems to be negotiating a common position with the Americans rather than to be carrying a brief for the EEC as a whole. But the time has passed when Britain needed to make French reactions the only test of its actions. Mr. Heath has gone to some pains in consulting his European colleagues—and notably President Pompidou—on how to talk to Mr. Nixon. But he no longer has to work under the shadow of a threatened French veto.

Mr. Heath's mission in Washington is not just to reaffirm the Atlantic connection, but to redefine it in the light of British entry into the community. Those in America who have supported the idea of a united Europe have always hoped for an effective political partner across the Atlantic that would help to disentangle international disputes and to shoulder the burden of keeping the balance of power. That idea ought to encourage Mr. Nixon to visit Europe later this year. It should be Mr. Heath's policy to carry the community towards a more self-confident European role in the world, and a more generous approach to trade policy.

DESIGNATION OF PERIOD ON TUESDAY NEXT FOR EULOGIES TO THE LATE FORMER PRESIDENT HARRY S TRUMAN

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished senior Senator from Missouri (Mr. SYMINGTON), and with the approval of the distinguished majority leader, I ask unanimous consent that on next Tuesday, February 6, following the recognition of Senators under any special orders previously entered, and the transaction of any routine morning business, there be a period of not to exceed 2 hours set aside for the delivery of eulogies with regard to the late former President Harry S Truman, that the RECORD remain open for 15 days thereafter for the insertion of additional eulogies, and that such eulogies then be collected and printed as a Senate document.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for eulogies to the late former President Harry S Truman on Tuesday, February 6, be under the control of the distinguished senior Senator from Missouri (Mr. SYMINGTON), or his designee.

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

EXCERPTS FROM PROCEEDINGS OF THE DEMOCRATIC CONFERENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a statement which I made to the Democratic conference this morning pertaining to the dastardly attack on our distinguished colleague, the Senator from Mississippi (Mr. STENNIS), another statement which I made relative to what we have attempted to do in the Democratic caucus and through consultation, and three resolutions with a covering statement; the first, a policy committee resolution on freedom of news gathering, the second, a resolution by Senator TUNNEY on the budget, and the third, a resolution by Senator PASTORE on the scarcity of oil and home heating fuel, be printed in the RECORD at this point. It is noted that all three resolutions were approved by the majority caucus.

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

STATEMENT OF SENATOR MIKE MANSFIELD

Gentlemen: We meet this morning following on the eve of a very tragic event. What happened to John Stennis, what happened to George Wallace, and Bob Kennedy, what has happened to so many of our great leaders in the past decade, and what happens and what might happen to every American as he walks the streets, as he lives his life, is something that the Senate and the Nation must face again and again until we rid ourselves, once and for all, of this terrible, festering blight of crime. As a first order of business I ask today that the Senate take all steps to provide effective crime control legislation. I ask John McClellan to move immediately on the Omnibus Victims of Crime bill, the bill that would compensate the innocent victim of violent crime, the bill that would provide added benefits to policemen and their survivors who are killed or maimed in the line of duty, the bill that would provide incentives to all law enforcement officers who are especially exposed to crime.

And also I ask that Senator Eastland, Senator McClellan and all others on the Committee on the Judiciary move with utmost dispatch on all proposals under their jurisdiction covering the question of crime, on all measures designed to inhibit the criminal and to inhibit his access to deadly weapons used against innocent victims.

The Senate ought to take a fresh look, I think, at all proposals on this subject, past and present. The criminal and his indiscriminate use of weapons, his indiscriminate access to weapons, the number of law enforcement officers required, the training they need are all matters which must be explored. They are all a part of the war on crime.

Finally I would say that an event such as the one that occurred last night and all of the tragedy in the past merely bring home again the fact of what is happening and what has happened all along. It is not a time to overreact; it is a time to respond reasonably, with restraint and with effective action.

STATEMENT OF SENATOR MIKE MANSFIELD BEFORE THE DEMOCRATIC CONFERENCE

We have been meeting, as Senate democrats, very regularly both in the Policy Committee and in these Conferences since the beginning of the year. We have been trying to give substance to our unity as democrats and to give form and direction to a Democratic program for the Senate.

In addition, the Senate Leadership has met several times with the House Leadership. Together with the Speaker and his associates, we are seeking ways to promote effective unity between the democrats in the two Houses of Congress. In turn, the joint Congressional leadership is establishing regular contact with the Democratic governors of the nation and with the Chairman of the Democratic National Committee. All of these initiatives represent follow-throughs on the keynote statement which was delivered to this Conference on January 3 and adopted unanimously as the guide for the Senate Leadership in the 93rd Congress.

We have been making our way carefully in

an effort to rediscover the territory of democratic unity. It is not easy to discern the route. The problems of coordination and adjustment and reconciliation of viewpoints are very great.

I want to report to you, today, however, that in my judgment, we are on the right road. We are headed towards an effective and constructive role for the democratic-controlled Senate in the 93rd Congress and, I believe, we will also make a major contribution to the role of the Democratic Party in the political life of the nation.

It is not yet a month since we set out on this path but we have already established the basis for better coordination between the House and Senate Democratic Majorities. We are also in good rapport with the democratic governors' caucus under the Chairmanship of Dale Bumpers and we have every expectation of developing an active relationship which can lead to a contribution to the work of the government and the Senate from that source.

Here in the Senate, we have already established by resolution or other action a number of identifiable and widely supported democratic positions with regard to the following:

1. The establishment of the initial legislative priorities of the 93rd Congress;

2. The termination of the participation of the United States in the war, a position which has been sustained by the recently negotiated settlement in Paris;

3. The acceptance of the Constitutional responsibility of Cabinet and other executive officials to appear and testify before Congressional Committees as a condition of Senate confirmation of their appointments;

4. The limiting of the use of the doctrine of Executive Privilege by officials of the Executive Branch for avoiding their Constitutional accountability to the Congress;

5. The reinforcement of the principle of "Open Hearings" as regards the procedures of all Senate Committees;

6. The curtailment of tendencies of the Executive Branch to interfere in media programming, planning and news reporting;

7. The Senate's responsibility to inquire into the Watergate affair and other insidious tamperings with the integrity of the electoral process.

I want to note, too, that, under the new doctrine of "juniority," the Policy Committee has had the participation at each of the last two meetings, of new Senators, in reverse order of seniority, beginning with Senators Biden and Haskell. This practice will be continued until all members have had an opportunity to participate in a meeting of the Policy Committee and to give the Committee the benefit of their insights and observations.

Finally, two ad hoc committees of the Conference are now functioning, the first on the improvement of Senate procedures and practices which is under Senator Stevenson's Chairmanship and the other on Executive Privilege, chaired by Senator Ervin.

Before proceeding to the regular items of business for today's meeting, I want to express my deep gratitude to the members of the Policy Committee and to those Senators who have made exceptional contributions to the articulation of unified democratic positions on certain potentially divisive issues. In particular, I want to thank Senator Stennis and Senator Nelson for their help on the question of Executive Privilege and Senator Ervin for his work on that issue and others. He will be carrying in his Committee a great deal of the load of investigatory work for this session.

In closing, let me repeat that we are off on the right track. Whether or not we stay on it depends on every Democratic Senator, on our readiness to restrain our individual inclinations sufficiently to permit common meaningful action. In this respect, the leadership has had the help, the forebearance and the understanding of the entire Conference in this first month of the new session. That alone explains the progress which has been recorded. If we can continue in this fashion throughout the 93d, I believe we shall make, as democrats, a substantial contribution to the vitality of the Senate's role in the government and to the strengthening of the national political process.

Mr. MANSFIELD. Mr. President, yesterday the Democratic policy committee met and adopted three resolutions, two of which specified that they be brought to the caucus for consideration and hopefully for approval. The third resolution dealing with the fuel oil shortage simply specified that a report be made to the Democratic conference on the policy committee action.

The first item of consideration by the caucus will be resolution No. 1, dealing with freedom of the press. The resolution has been distributed to the caucus and the secretary will read the resolution.

The second resolution adopted by the policy committee was a recommendation originally proposed by Senator TUNNEY and considered by the conference. It deals with the establishment of procedures—and I emphasize the word "procedures"—to take into consideration a more significant role for the Congress in the total budgetary process. The resolution has been distributed. The secretary will also read this resolution.

As a final matter on the agenda, the resolution on fuel oil shortage will be distributed and read by the secretary. The policy committee did not direct that this matter also be voted on by the caucus, but that notification be given to the caucus of the action by the policy committee in this regard.

The resolutions follow:

POLICY COMMITTEE RESOLUTION ON FREEDOM OF NEWS GATHERING

Whereas, the First Amendment of the Constitution of the United States safeguards the freedom of the press;

Whereas, reporters have been imprisoned for carrying out what they deem to be their professional obligations under the First Amendment;

Whereas, judicial interpretations of the rights and obligations of the press appear to cast the shadow of encroachment on practices basic to a free press;

Whereas, the Senate Democratic Conference on January 3, 1973, endorsed the principle that the Congress shares "with the President and the Courts a Constitutional responsibility to protect *the freedom of the press to operate as a free press;*"

The Majority Policy Committee of the Senate resolves:

1. That the Senate Committee on the Judiciary undertake during the 93rd Congress, an inquiry into the adequacy of the legal privileges and immunities related to news-gathering;

2. That such investigation include but not necessarily be limited to pertinent recent judicial interpretations which relate to the rights and responsibilities of a free press;

3. That the Committee on the Judiciary report its findings and conclusions, together with whatever recommendations it deems appropriate to safeguard the freedom of the press to operate as a free press.

The Majority Leader is directed to place this resolution before the Senate Democratic Conference and, if concurred in, to communicate a copy to the Chairman of the Committee on the Judiciary. He is directed, further, to discuss the resolution with the Minority Leader of the Senate with a view to obtaining bi-partisan endorsement of the proposed inquiry.

RESOLUTION BY SENATOR JOHN TUNNEY

Whereas, The Constitution grants two great fiscal powers to Congress: the power to raise revenue and the power to spend; and

Whereas, The President has seized by means of impoundment, unilateral budget cuts, and fiscal manipulations outside the knowledge or control of Congress the power over the determination of priorities and expenditure levels; and

Whereas, Congress must recapture its rightful constitutional place in the fiscal process; and

Whereas, The Congress in the past four years has cut $20 billion from the President's appropriation requests in an effort significantly to limit federal expenditures; and

Whereas, In spite of these cuts by the Democratic Congress more than $100 billion has been added to the national debt by this present Administration over the past four years; and

Whereas, The Congress is deeply concerned about the impact of runaway inflation upon the American people and the plight of 5 million unemployed; and

Whereas, the Democratic Caucus has unanimously adopted the remarks of Senator Mansfield, the distinguished Majority Leader, that "unless and until specific means are recommended by the Joint Committee, . . . (he) would hope that the (Caucus) will give the Leadership some guidance on how an over-all expenditures ceiling may be set as a goal for the first session of the 93rd Congress."

Therefore, Be it resolved that it is the sense of the Caucus that the Senate members of the Joint Committee to Review the Operation of the Budget be urged to conduct studies and investigations for the purpose of recommending to the Congress by February 15, 1973, (1) procedures for establishing a ceiling on budget outlays and new obligational authority, (2) procedures for relating individual appropriations and other spending actions to the expenditures ceiling, (3) revisions in the Federal budget and appropriations process to assure the proper relationship between expenditures and revenues.

RESOLUTION ON THE OIL SHORTAGE

Whereas, The supply of energy for heating purposes has reached a critical stage in many parts of this country; and

Whereas, Governors have expressed grave concern that the fuel oil shortage for industry, agriculture and home heating has reached a critical stage in some States; and

Whereas, An Intergovernmental Task Force appointed by President Nixon recommended in 1970 the phasing out of the import quotas for oil;

The Majority Policy Committee of the Senate recommends:

1. That the President set in motion all necessary emergency procedures, including the release of military stockpile supplies, to meet the essential requirements for oil and other fuels in regions of critical shortage;

2. That the President of the United States and appropriate Committees of the Senate under S. Res. 45, review the matter of the crude oil shortage and home heating oil shortage and the quota system to assure to the American consumer an adequate supply at reasonable prices and also protection to the domestic industry and national security.

3. That the appropriate Senate Committees examine further into the critical situation to determine if additional legislation is required to provide assuranecs of a continuing supply of crude oil and other essential petroleum products from any and all sources.

COUNSEL TO THE PRESIDENT REPLIES ON QUESTION OF OFFICIALS' REFUSAL TO TESTIFY

Mr. MANSFIELD. Mr. President, on January 11, 1973, I wrote the President of the United States informing him of the action of the majority conference of the Senate in adopting a resolution concerning the refusal of Cabinet and other officials to testify before Senate committees.

By letter of January 25, 1973, Mr. John W. Dean III, Counsel to the President, replied to my letter.

I ask unanimous consent that my letter and the reply of Mr. Dean thereto be printed at this point in the RECORD.

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

JANUARY 11, 1973.

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

DEAR MR. PRESIDENT: The Majority Conference of the United States Senate has requested that I advise you most respectfully of its action today in adopting the following resolution concerning the refusal of Cabinet and other officials to testify before Senate Committees:

Whereas, the Constitution of the United States, Article II, Section 2, vests the President with the power of appointment "by and with the Advice and Consent" of the Senate;

Whereas, on behalf of the Senate, Committees of the Senate are authorized to summon witnesses to appear and testify on the business of the Senate;

Whereas, appointed officials, subsequent to Senate confirmation, have refused on occasion to appear and testify before duly constituted Committees of the Senate:

Resolved by the Democratic Majority of the Senate:

(1) That a prerequisite to confirmation is the commitment of Presidential appointees to appear and testify before duly constituted Committees of the Senate in response to Committee requests therefor;

(2) That all Senate Committees bear a responsibility to determine, prior to confirmation, the commitment of Presidential appointees to comply with requests to appear and testify before Committees;

(3) That Committee reports to the Senate on all cabinet designees and such other appointees as deemed appropriate should contain an evaluation of their commitment to respond to requests to appear and testify before duly constituted Senate Committees.

It will be my intention as Majority Leader to cooperate in every way in carrying out the purposes and intentions of this resolution.

Respectfully,

MIKE MANSFIELD.

THE WHITE HOUSE,
Washington, D.C., January 25, 1973.

Hon. MICHAEL J. MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: In response to your letter of January 11, 1973, the President has asked me to thank you for forwarding the text of a resolution adopted by the Democratic Conference of the Senate which advocates, as a prerequisite to confirmation, that Presidential appointees provide the appropriate confirming committees with assurances that they will appear and testify. Indeed, this proposal does not conflict with the policy of this Administration that appointed officials who are subject to Senate confirmation not only respond to invitations to appear before duly constituted committees of Congress but, on appropriate occasions, request time to testify on matters of mutual interest to the committees and their departments or agencies.

Recognizing that there are over 300 committees and subcommittees in the Congress, most committee chairmen have been cooperative and reasonable in scheduling witnesses. As Majority Leader of the Senate, your continued assistance in recognizing the scheduling difficulties of officials who must manage the departments and agencies and assuring that sufficient notice of hearings is provided prospective witnesses in order that witnesses can be fully responsive to the information needs of the Congress should greatly aid in avoiding scheduling problems for both the Executive and Legislative Branches.

At an appropriate opportunity, I would like to discuss with you the recurring problem of "leaks" of classified information given in closed, executive sessions of Senate committees. Not only does this practice violate the Senate's own rules, but it makes it most difficult for the Administration to fully share such information, especially in the area of national security and foreign policy.

As we begin the next four years of this Administration, I wish to reiterate that in dealing with the matters of Executive Privilege, the same policy and procedure will be in effect that has been employed in the past. The President early in his first term expressly outlined the policy to be followed by the heads of Executive departments and agencies. The President directed that Executive Privilege would be used only with specific Presidential approval after a rigorous inquiry into actual need for its exercise. As you know, it has been necessary to invoke this privilege on only three occasions in the past four years.

Since this response goes beyond the items raised in your letter, I am taking the liberty of sharing a copy with the Republican Leader, Senator Hugh Scott.

With cordial regards.

Sincerely,

JOHN W. DEAN III,
Counsel to the President.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON INTERNATIONAL AGREEMENTS, OTHER THAN TREATIES

A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on International Agreements, other than Treaties (with accompanying papers); to the Committee on Foreign Relations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution of the House of Representatives of the State of Illinois; to the Committee on Finance:

"HOUSE RESOLUTION 918

"Whereas, The growing fuel, oil and propane gas shortage spreading over the Midwest is posing an immediate threat to Northern Illinois and Rockford and other communities; and

"Whereas, Schools, hospitals, factories and homes face the possibility of no heat unless the supply problem is solved; and

"Whereas, Illinois farmers are faced with crippling financial losses because of insufficient energy to dry crops; and

"Whereas, The resultant crop loss will further increase food costs borne by the consumer; and

"Whereas, This fuel crisis is the result of sizeable cutbacks imposed on many fuel dealers by refineries and increased demands for energy; therefore, be it

"*Resolved,* That the President and Congress take action to increase the supply of petroleum fuels by lifting import restrictions and by facilitating the transportation of fuel to areas facing a fuel crisis; be it further

"*Resolved,* That federal government examine the long term energy needs of the nation and develop appropriate policies to prevent the re-occurence of such an energy crisis; and; be it further

"*Resolved,* That a suitable copy of this preamble and resolution be presented by the Office of the Secretary of State to the Secretary of the Senate and the Clerk of the House of the U.S. Congress and the President of the United States.

"Adopted by the House, January 9, 1973."

A resolution adopted by the Iowa State Soil Conservation Committee regarding the termination of the Rural Environmental Assistance Program; to the Committee on Agriculture and Forestry.

A resolution adopted by the Board of Commissioners, Clarke County, Georgia, with respect to the passage of the State and Local Assistance Act of 1972; to the Committee on Finance.

A resolution adopted by the Mayor and Town Council of Forest Heights, Maryland relating to a constitutional amendment on busing; to the Committee on the Judiciary.

The petition of James A. Higgins, praying for a redress of grievances; to the Committee on the Judiciary.

A resolution adopted by the City Council of the City of Fresno, California, in memory of President Johnson; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on Government Operations, without amendment:

S. 261. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide for minimum Federal payments for four additional years, and for other purposes (Rept. No. 93–10).

Mr. MUSKIE. Mr. President, from the Committee on Government Operations, I report favorably the bill (S. 261) to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide for minimum Federal payments for 4 additional years, and for other purposes, and I submit a report thereon. I ask unanimous consent that the report be printed.

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

By Mr. LONG, from the Committee on Finance, without amendment:

S. Res. 40. Resolution to provide four additional professional staff members and four additional clerical assistants for the Committee on Finance. Referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. EASTLAND, from the Committee on the Judiciary:

Joseph T. Sneed, of North Carolina, to be Deputy Attorney General.

Subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Robert H. Bork, of Connecticut, to be Solicitor General of the United States.

Subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Robert G. Dixon, Jr., of Maryland, to be an Assistant Attorney General.

Subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

J. Stanley Pottinger, of California, to be an Assistant Attorney General.

Subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

James D. McKevitt, of Colorado, to be an Assistant Attorney General.

Subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. MOSS, from the Committee on Commerce:

Richard W. Roberts, of New York, to be Director of the National Bureau of Standards.

The nominee has agreed to make himself available for testimony at any time the committee requests.

By Mr. EAGLETON, from the Committee on the District of Columbia:

Walter E. Washington, of the District of Columbia, to be Commissioner of the District of Columbia.

Subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CURTIS:

S. 613. A bill to amend the Communications Act of 1934 in order to provide that licenses for the operation of a broadcasting station shall be issued for a term of 5 years. Referred to the Committee on Commerce.

S. 614. A bill to amend titles X and XVI of the Social Security Act to prohibit any State from imposing a lien on a blind individual's property as a condition of aid or assistance thereunder;

S. 615. A bill to amend title II of the Social Security Act to permit an individual to receive retroactive payments of benefits thereunder if such individual was without fault in failing to make timely application for such benefits; and

S. 616. A bill to amend the Internal Revenue Code of 1954 to provide for a reduced rate of tax for gasoline which contains grain alcohol and no lead. Referred to the Committee on Finance.

S. 617. A bill for the relief of James Evans, publisher of the Colfax County Press, and Morris Odavarka; and

S. 618. A bill to designate November 11 of each year as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

By Mr. ALLEN (for himself, Mr. BAKER, Mr. BUCKLEY, Mr. HELMS, Mr. NUNN, Mr. SCOTT of Virginia, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, and Mr. THURMOND):

S. 619. A bill to prescribe uniform criteria for formulating judicial remedies for the elimination of dual school ssytems. Referred to the Committee on the Judiciary.

By Mr. ALLEN (for himself and Mr. SPARKMAN):

S. 620. A bill to amend the Appalachian Regional Development Act of 1965 to extend its coverage to Greene County, Ala. Referred to the Committee on Public Works.

By Mr. TAFT:

S. 621. A bill to amend title 5, United States Code, to provide for withholding city income taxes from compensation paid Federal employees. Referred to the Committee on Finance.

By Mr. DOLE (for himself, Mr. YOUNG, and Mr. PEARSON):

S. 622. A bill to provide price support for milk at not less than 85 percent of the parity price therefor. Referred to the Committee on Agriculture and Forestry.

By Mr. HANSEN (for himself and Mr. MCGEE):

S. 623. A bill to authorize the Secretary of the Interior to reimburse the Shoshone and Arapahoe Tribes of the Wind River Reservation in Wyoming for tribal funds that have been used for the construction, operation, and maintenance of the Wind River irrigation project, Wyoming. Referred to the Committee on Interior and Insular Affairs.

By Mr. SPARKMAN:

S. 624. A bill for the relief of John R. Poe. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN (for himself and Mr. ALLEN):

S. 625. A bill to provide for the establishment of the Cathedral Caverns National Monument in the State of Alabama, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 626. A bill to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes. Referred to the Committee on Post Office and Civil Service.

6. 627. A bill to amend the Internal Revenue Code of 1954 to provide that the first $4,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income. Referred to the Committee on Finance.

S. 628. A bill to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married; and

S. 629. A bill to increase the contribution by the Federal Government to the costs of Federal employees' health benefits insurance, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. NELSON (for himself, Mr. METCALF, Mr. EAGLETON, Mr. HUMPHREY, Mr. MONDALE, Mr. CHURCH, Mr. CRANSTON, Mr. CASE, Mr. MCINTYRE, Mr. WILLIAMS, Mr. JAVITS, Mr. ERVIN, Mr. PELL, Mr. RANDOLPH, Mr. MUSKIE, Mr. FULBRIGHT, Mr. PERCY, Mr. SCHWEIKER, Mr. HUGHES, Mr. HATFIELD, and Mr. RIBICOFF):

S. 630. A bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails. Referred to the Committee on Post Office and Civil Service.

By Mr. CHURCH (for himself and Mr. MAGNUSON):

S. 631. A bill to amend the Social Security Act to provide for the coverage of certain drugs under part A of the health insurance program established by title XVIII of such act. Referred to the Committee on Finance.

By Mr. CHURCH (for himself, Mr. MAGNUSON, Mr. MANSFIELD, and Mr. CRANSTON):

S. 632. A bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings, and for other purposes. Referred to the Committee on Finance.

By Mr. CHURCH (for himself and Mr. MAGNUSON):

S. 633. A bill to authorize the Secretary of Labor to make grants for the conduct of older Americans home-repair projects, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. CHURCH (for himself and Mr. MCCLURE):

S. 634. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 635. A bill to subject the Federal, State, and local governments to the provisions of the Age Discrimination in Employment Act of 1967. Referred to the Committee on Labor and Public Welfare.

By Mr. MONDALE:

S. 636. A bill for the relief of Edwin J. Anglesey. Referred to the Committee on the Judiciary.

By Mr. MONDALE (for himself, Mr. MANSFIELD, Mr. PROXMIRE, Mr. MCGOVERN, Mr. HUMPHREY, Mr. PELL, Mr. BURDICK, Mr. WILLIAMS, and Mr. HASKELL):

S. 637. A bill to protect the free flow of information coming into the possession of the media of communication. Referred to the Committee on the Judiciary.

By Mr. BAYH:

S. 638. A bill for the relief of Fernando De la Rama and Carmen De la Rama. Referred to the Committee on the Judiciary.

S. 639. A bill to limit subsidy payments under the wheat, cotton, and feed grain programs. Referred to the Committee on Agriculture and Forestry.

By Mr. FONG:

S. 640. A bill to amend the Labor-Management Relations Act of 1947 to provide more effective means for protecting the public interest and promoting settlement of emergency disputes involving the transportation industry, and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 641. A bill for the relief of Chu York Lui (also known as Cheu Wah Lui);

S. 642. A bill for the relief of Ruby Y. K. Kum;

S. 643. A bill for the relief of Antonio Ballesteros; and

S. 644. A bill for the relief of Fred D. Domingo, Aquilina B. Domingo, Froilan Domingo, Azucena Mae Domingo, and William Domingo. Referred to the Committee on the Judiciary.

By Mr. BAYH (for himself and Mr. COOK):

S. 645. A bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 646. A bill to amend the Communications Act of 1934 to provide that licenses for the operation of a broadcasting station shall be issued for a term of five years, and to establish certain rules for the consideration of applications for renewal of broadcast licenses. Referred to the Committee on Commerce.

By Mr. MCGEE (by request):

S. 647. A bill to establish a nationwide National Public Employee Merit System. Referred to the Committee on Post Office and Civil Service.

By Mr. McGEE (for himself, Mr. WILLIAMS, Mr. EASTLAND, and Mr. MONDALE):

S. 648. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes. Referred to the Committee on Labor and Public Welfare.

By Mr. JAVITS (for himself, Mr. ABOUREZK, Mr. BROCK, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. FONG, Mr. GRAVEL, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. KENNEDY, Mr. McGOVERN, Mr. MOSS, Mr. JACKSON, Mr. WILLIAMS, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. RIBICOFF, Mr. ROTH, Mr. SCOTT of Pennsylvania, and Mr. TUNNEY):

S. 649. A bill to provide for the use of certain funds to promote scholarly, cultural, and artistic activities between Japan and the United States, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. PACKWOOD (for himself, Mr. ABOUREZK, Mr. BAKER, Mr. BEALL, Mr. CHILES, Mr. CHURCH, Mr. CRANSTON, Mr. DOMINICK, Mr. EAGLETON, Mr. GURNEY, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. McCLURE, Mr. McGOVERN-Mr. McINTYRE, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENS, Mr. STEVENSON, Mr. TUNNEY, Mr. WEICKER, and Mr. McGEE):

S. 650. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns. Referred to the Committee on Finance.

By Mr. McCLURE:

S. 651. A bill to amend chapter 44 of title 18 of the United States Code—respecting firearms—to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain recordkeeping provisions with respect to ammunition; and

S. 652. A bill to repeal the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

By Mr. BELLMON (for himself, Mr. BARTLETT, Mr. BEALL, Mr. BIBLE, Mr. CHILES, Mr. ERVIN, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HUMPHREY, Mr. McCLELLAN, Mr. McGEE, Mr. MONDALE, and Mr. THURMOND):

S. 653. A bill to insure the separation of powers by prohibiting the impoundment of funds from the highway trust fund which have been apportioned and appropriated. Referred to the Committee on Finance.

By Mr. BEALL:

S. 654. A bill to establish an Emergency Medical Services Administration within the Department of Health, Education, and Welfare to assist communities in providing professional emergency medical care. Referred to the Committee on Labor and Public Welfare.

S. 655. A bill for the relief of Lt. Comdr. Ralph Wayne Tobias, U.S. Navy (retired). Referred to the Committee on the Judiciary.

S. 656. A bill for the relief of Peggy S. Foy. Referred to the Commmittee on the Judiciary.

By Mr. HATFIELD:

S. 657. A bill to designate the Hells Canyon National Forest Parklands Area, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. GURNEY:

S. 658. A bill to authorize the President to designate the first week in November of each year as "National Art Week." Referred to the Committee on the Judiciary.

S. 659. A bill to increase the penalty with respect to offenses involving the commission of a felony while armed with a firearm. Referred to the Committee on the Judiciary.

By Mr. GURNEY (for himself and Mr. TOWER):

S. 660. A bill to authorize and request the President to issue annually a proclamation designating the month of February of each year as "American History Month." Referred to the Committee on the Judiciary.

By Mr. McINTYRE:

S. 661. A bill for the relief of Okechukwu Baldwin M. Ewuzie and Theresa Nwanneka Ewuzie. Referred to the Committee on the Judiciary.

By Mr. JACKSON:

S. 662. A bill to authorize the Secretary of the Interior to establish and administer a program of direct Federal employment to improve the quality of the environment, the public lands, Indian reservations, and commonly owned and shared resources through a program of recreational development, reforestation and conservation management, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HRUSKA (for himself and Mr. BURDICK):

S. 663. A bill to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. COTTON (for himself and Mr. McINTYRE):

S. 664. A bill to provide an additional permanent district judgeship in New Hampshire. Referred to the Committee on the Judiciary.

By Mr. NELSON:

S. 665. A bill for the relief of Mercedes Toalino de Romero, Patricia Romero, Magda Romero, and Mercedes Nela Romero; and

S. 666. A bill for the relief of Slobodan Babic. Referred to the Committee on the Judiciary.

By Mr. RANDOLPH (for himself, Mr. GRAVEL, Mr. DOMINICK, Mr. HART, Mr. JAVITS, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. SCOTT of Pennsylvania, Mr. STEVENS, and Mr. WILLIAMS):

S. 667. A bil to amend the Public Health Services Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY:

S. 668. A bill for the relief of Mrs. Vimala Subbiah, Mr. Ponnambalam Subbiah, Miss Meena Kumari Subbiah, Miss Ponni Subbiah, and Miss Komathi Subbiah. Referred to the Committee on the Judiciary.

By Mr. COTTON (for himself and Mr. McINTYRE):

S. 669. A bill to provide for the establishment of the Fort Constitution National Historic Site in New Hampshire, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BURDICK (for himself and Mr. YOUNG):

S. 670. A bill to increase the authorization for the appropriation of funds to complete the International Peace Garden, North Dakota. Referred to the Committee on Interior and Insular Affairs.

By Mr. HART:

S. 671. A bill for the relief of Irena Jardzioch;

S. 672. A bill for the relief of Saada Aybout (Sandra Oade); and

S. 673. A bill for the relief of Soledad R. Isturis. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 674. A bill for the relief of Jesus Tagle Kangleon and his wife, Solita Alconcel Kangleon; and

S. 675. A bill for the relief of Mr. Jose F. Aquino. Referred to the Committee on the Judiciary.

By Mr. MUSKIE:

S. 676. A bill to provide that budget requests of executive agencies shall be made known to the Congress and the public and to require public disclosure by Government agencies of participation in its rulemaking process by other Government agencies. Referred to the Committee on Government Operations.

By Mr. WILLIAMS:

S. 677. A bill for the relief of Rigoberto Jimenez and his wife, Rosa Jimenez. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 678. A bill for the relief of Glen Donald Murphy. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. WEICKER, Mr. BROOKE, Mr. HART, Mr. JAVITS, Mr. McGOVERN, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, and Mr. SCOTT of Pennsylvania):

S. 679. A bill to improve the efficiency of the Nation's highway system, allow States and localities more flexibility in utilizing highway funds, and for other purposes. Referred to the Committee on Public Works.

By Mr. COTTON:

S. 680. A bill for the relief of Vera Lucia Carvalho, Marcia Maria Carvalho, and Marcos Vinecius Carvalho. Referred to the Committee on the Judiciary.

By Mr. LONG (for himself and Mr. JOHNSTON):

S. 681. A bill to amend title 23 of the United States Code to authorize the expenditure of Federal-aid highway funds on toll roads which are part of the interstate system and are made toll-free prior to a certain date, and for other purposes;

S. 682. A bill to modify the project for flood control on the Mississippi River and tributaries with respect to the Atchafalaya River basin in Louisiana; and

S. 683. A bill to modify the project for navigation in the Atchafalya River Bayous Chene, Boeuf, and Black, Louisiana. Referred to the Committee on Public Works.

By Mr. STEVENSON:

S. 684. A bill to amend section 109 of title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Referred to the Committee on Veterans' Affairs.

By Mr. BENTSEN:

S.J. Res. 44. A joint resoluton to authorize the President to designate the period beginning April 15, 1973, as "National Plumbing Industry Week." Referred to the Committee on the Judiciary.

By Mr. HUDDLESTON:

S.J. Res. 45. A joint resolution to provide for the erection of a memorial to those who served in the armed forces of the United States in the Vietnam war. Referred to the Committee on Interior and Insular Affairs.

By Mr. JAVITS:

S.J. Res. 46. A joint resolution to authorize and request the President to proclaim April 1973 as "Hobby Month." Referred to the Committee on the Judiciary.

By Mr. BARTLETT:

S.J. Res. 47. A joint resolution proposing an amendment to the Constitution of the United States relating to open admissions to public schools. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CURTIS:

S. 613. A bill to amend the Communications Act of 1934 in order to provide that licenses for the operation of a broadcasting station shall be issued for a term of

5 years. Referred to the Committee on Commerce.

Mr. CURTIS. Mr. President, I am today reintroducing my bill to provide that broadcasters' licenses will be issued for 5-year terms instead of the present 3 years. Support for my proposal has grown considerably in recent months, and I hope that the Committee on Commerce can give it early and favorable action.

I have felt for a long time, based upon my contacts with many small radio stations in Nebraska, that a 3-year license period is not long enough to encourage the best broadcasting service to the listeners who depend upon it. In recent years, the volume of paperwork required by the Federal Communications Commission to justify the reissuance of a broadcast license has been greatly increased. This paperwork includes all types of survey information which broadcasters must gather from their listeners and viewers to submit with their license applications. The purpose of the information is to show that the radio or television station is truly serving the public interest in its home community.

The very volume of this information required today by the Federal Communications Commission, Mr. President, is sufficient to justify a longer license period. Gathering this information requires hundreds and in some cases thousands of hours of work by the employees of broadcast stations.

The time that it takes for the Federal Communications Commission to review all this information also is a factor favoring a 5-year license period. The Federal Communications Commission does not have sufficient personnel to review all of the information required to be submitted to it. Extending the license period from 3 to 5 years would give the FCC the time for adding personnel to its staff to devote adequate attention to all details.

Finally, Mr. President, I am pleased to report that the administration is supporting a 5-year license period for the first time. This support was announced publicly recently by Mr. Clay Whitehead, Director of Telecommunications. For years I have been urging the administration to take a such position. I am glad to have this support ad I believe it is a significant factor that should be considered by the Committee on Commerce in giving my proposal early and favorable action.

By Mr. ALLEN (for himself, Mr. BAKER, Mr. BUCKLEY, Mr. HELMS, Mr. NUNN, Mr. SCOTT of Virginia, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, and Mr. THURMOND):

S. 619. A bill to prescribe uniform criteria for formulating judicial remedies for the elimination of dual school systems. Referred to the Committee on the Judiciary.

THE UNIFORM CRITERIA ACT OF 1973

Mr. ALLEN. Mr. President, I introduce for myself, Mr. BAKER, Mr. BUCKLEY, Mr. HELMS, Mr. NUNN, Mr. SCOTT of Virginia, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, a bill designed to provide uniform statutory criteria for the formulation of remedies in school desegregation cases. I request unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ALLEN. Mr. President, some of the provisions of this bill are taken from the Equal Educational Opportunities Act of 1972—H.R. 13915, 92d Congress—which was killed by a liberal-led Senate filibuster in the waning days of that Congress. However, this version is different in several substantive particulars. The statement of policy and purpose is different as are the congressional findings; the prescribed standards for the formulation of remedies; and the prescribed statutory limitations on the exercise of discretionary equity power of U.S. district court judges in the formulation of desegregation decrees which require transportation of students.

Previous congressional efforts to provide statutory limitations on forced busing have been defeated by reason of such limitations being set out in bills which would authorize Federal intervention in de facto school segregation situations. This bill isolates the issue as to whether or not heretofore near unlimited discretionary equity powers of Federal judges to formulate desegregation decrees should be limited by Congress to the extent necessary to prevent abuses of the judicial discretion in the form of decrees which, in implementation, require excessive busing and cross-busing of schoolchildren.

Mr. President, I will not elaborate at this time on all of the provisions of the bill. Hopefully, hearings will provide ample opportunity for that. It is sufficient to say that provisions of the bill are adequate to accomplish the stated policy and purpose of implementing the due process guarantee of the Constitution in a manner to protect citizens and local institutions of self-government from the exercise of limitless discretionary powers by Federal judges or by any branch, agency, or officer of the U.S. Government; and to terminate, by means consistent with the Constitution, the involvement of Federal courts in matters affecting the operation, management, and control of public schools.

Briefly, the bill sets forth a series of findings, all of which are accessible from accumulated data and common sense observations of the continuously evolving desegregation process over a period of almost 20 years. These findings set out in the bill constitute the basis for statutory standards and limitations to be taken into account in formulating desegregation plans and decrees.

Title I states an obvious conclusion that it is not unconstitutional to assign students to a school nearest their places of residence unless such assignments are made for the purpose of segregating students on the basis of race, color, sex, or national origin. No statutory provision on this subject would be necessary were it not for the fact that some U.S. district court judges seem to be of a contrary opinion. It is further provided, in effect, that since racial balance is not an affirmative requirement of the Constitution, the failure of a school board to achieve or maintain a racial balance of students among schools does not violate the Constitution.

Title II relates to formulating remedies. In considering the provisions of this title, it is necessary to bear in mind that the provisions deal specifically with discretionary equity powers of Federal court judges, but only in cases where a desegregation decree may require transportation of students. Equity is one of the devices in our judicial system for individualizing the law. It is proper that judges, in the exercise of equity power, should consider the efficacy of specific remedies and combinations of remedies designed to meet the requirements of particular situations. That is precisely what title II provides. In this connection, I have omitted in this bill the previously suggested statutory authority for a judge, in his sole discretion, to require school officials to construct school parks. The reason for this omission is that the specific provision of Public Law 92–318, which authorizes the expenditure of emergency school aid funds for construction of school parks, would be repealed by a subsequent section of this bill as it was by an identical provision of H.R. 13915, which passed the House in the 92d Congress.

We have also omitted a suggested authorization for a judge, in his sole discretion, to close inferior schools and order the construction of new schools. The judgement as to what constitutes superior and inferior schools necessarily involves subjective considerations. As such, there are no objective criteria from which to make valid judgments on this question. Accordingly, such judgments should be made by local school authorities and not by a Federal judge. Furthermore, statutory authority to authorize a judge to close schools and to order the construction of new schools would vest the judge with a legislative power to establish priorities for the expenditure of local tax revenues. Such a discretionary power in the hands of a Federal judge is inconsistent not only with traditional principles of equity but also with public policy in that such a delegation of power to a Federal judge would conflict with the controlling constitutional doctrine of separation of powers.

It should be pointed out that each of the statutory remedies set out in the bill and to be considered in the formulation of judicial remedies authorizes some degree of busing. In addition, there is a catch-all provision which authorizes any other educationally sound and administratively feasible desegregation plan which may require some busing if not inconsistent with limitations on busing and other provisions of the bill. The efficacy of these remedies and combination of remedies have long been demonstrated in the South.

Mr. President, were the bill to stop at this point, there would be very little in it by way of relief from judicial abuses of power which have been demonstrated so frequently in Southern States. However, the bill contains additional provisions which offer relief in the form of specific limitations on the transportation of stu-

dents. These relate to statutory limitations on the exercise of discretionary equity powers of Federal court judges.

For example, a pupil may be ordered to be transported to a school which offers the appropriate grade level and type of education to meet the needs of the pupil but not to such a school located beyond one next closest to his place of residence. The existing equity power of judges to pair schools, cluster schools, and gerrymander school attendance boundaries are all recognized under the provisions of the bill. With such statutory remedies available, it is incredible that the vestiges of the dual school system or de facto segregation, for that matter, could not be eliminated without transporting a student beyond the limit of a suitable school next nearest to his place of residence.

The existing discretionary power of a judge to order transportation of students for distances which pose a risk to the health or significantly impinge on the educational process of the students is prohibited. Had U.S. district court judges not disregarded these criteria, the validity of which are recognized by the U.S. Supreme Court, such a statutory prohibition would not be necessary. This last provision makes it clear that judges have neither discretionary equity power nor statutory authority to enter decrees which disregard these criteria.

Another provision of the bill imposes a limitation on discretionary equity power of judges by making it clear that equity does not contemplate a discretionary power in Federal judges to disregard the boundary lines of political subdivisions of a State in formulating desegregation decrees. The boundary lines of most school districts correspond to boundary lines of counties, cities, or municipalities. Questions on the validity of this limitation on discretionary equity powers of U.S. district court judges is presently before the U.S. Supreme Court. It is impossible to predict what the Court may hold. Nevertheless, it would seem appropriate for Congress to express itself on this point in keeping with the negative proposed by the bill.

With respect to remedies in desegregation cases and criteria for the formulation of such remedies, it must be confessed that this bill offers no panacea. Traditionally, equity jurisdiction and remedies are invoked when it is made to appear that a complete and adequate remedy is not available at law. Thus, any court may consider the remedies and limitations which may be enacted by Congress and conclude that they are inadequate to vindicate a constitutionally protected right. In such cases, the court would merely invoke its equity power to provide a complete and adequate remedy. It will be seen that liberal arguments to the effect that statutory limitations on discretionary power of Federal judges would turn the clock back to pre-Brown I days, or that the act would inhibit the U.S. Supreme Court in the vindication of a constitutionally protected right is pure bunk.

This bill also contains a reopener provision. In instances where a U.S. district court judge may have abused his discretionary power, the bill provides a statutory right in school officials to file for modification of existing decrees to make them consistent with the laws of Congress. The substantive right of parties to file for modification of decrees in equity is not dependent on statutory authority. However, the power of the Attorney General to intervene on behalf of plaintiff school boards is dependent on statutory authority. Such authority is provided by the bill.

From the standpoint of termination of orders, it should be noted that the U.S. Supreme Court has acknowledged that at some point separate school systems will have eliminated dual school systems along with the vestiges of such systems. The Court has further acknowledged that at such time the jurisdiction of the Court, dependent as it is on a constitutional violation, will have terminated. The bill provides for such termination under such circumstances. It is inconceivable that Federal courts should remain entangled in this mess in perpetuity.

Mr. President, I have not made an effort to meet all of the arguments which might be raised to the separate provisions of this bill. Needless to say, legislation dealing with judicial proceedings and particularly proceedings which raise the question of the power of Congress to impose reasonable statutory limitations on the exercise of traditional discretionary equity powers of U.S. courts, presents issues which specifically come within the domain of the Senate Committee on the Judiciary. I understand that the bill will be referred to that committee.

EXHIBIT 1

S. 619

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

POLICY AND PURPOSE

SEC. 2. (a) The Congress declares it to be the policy of the United States that—

(1) all persons in the United States are entitled to freedom from coercion imposed in the exercise of limitless discretionary powers by any branch, agency, or officer of the United States government;

(2) it is in the public interest to terminate at the earliest practical date by means consistent with the Constitution on the involvement of U.S. courts in decisions affecting the operation, management, and control of public schools.

(b) In order to carry out this policy it is the purpose of this Act to specify appropriate criteria for the formulation of remedies for the orderly elimination of the vestiges of dual school systems.

FINDINGS

SEC. 3. (a) The Congress finds that—

(1) dual school systems as defined by the courts have been effectively dismantled in the U.S.;

(2) in the process of eliminating dual school systems, many local educational agencies have been required to reorganize their school systems and undertake massive reassignments of students and to engage in the extensive transportation of such students;

(3) the guidelines provided by the courts for fashioning remedies to dismantle previously-maintained dual school systems and for the elimination of the vestiges of dual systems have been acknowledged by the Supreme Court of the United States to be "incomplete and imperfect," and the Congress finds that they are particularly inadequate from the standpoint of providing criteria for determining the extent to which an educational agency is required to reassign or transport students to eliminate the vestiges of the dual school system;

(4) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend a large amount of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(5) transportation of students is excessive when it creates serious risks to the health and safety of students, or disrupts the educational process carried out with respect to such students, or impinges significantly on their educational opportunity;

(6) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades;

(7) the neighborhood is the appropriate basis for determining public school assignments in the first six grades;

(8) the assignment of students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis is educationally sound and is consistent with public policy long recognized by Congress.

(9) it is contrary to public policy to require an educational agency to attain or maintain a balance, on the basis of race, color, sex, national origin or socio-economic classes of students among its schools;

(10) it is contrary to the public interest to require an educational agency to make year by year school assignments to adjust the racial composition of student bodies after desegregation has been accomplished and racial discrimination through official action is eliminated from the separate school systems in the nation;

(11) in the interest of orderly administration of public schools, it is urgent that school authorities be provided authoritative criteria by which to determine what is required by Congress and the courts to eliminate the vestiges of previously-maintained dual school systems;

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems.

TITLE I—ASSIGNMENT PROVISIONS

ASSIGNMENT ON NEIGHBORHOOD BASIS

SEC. 101. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal protection of the laws unless such assignment is made for the purpose of segregating students on the basis of race, color, sex, or national origin.

BALANCE NOT REQUIRED

SEC. 102. The failure of an educational agency to attain a balance, on the basis of race, color, sex, national origin, or socio-economic status of students among its schools shall not constitute a denial of equal protection of the laws.

TITLE II—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 201. In formulating a remedy for a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal protection of the laws.

SEC. 202. In formulating a remedy for a denial of the equal protection of the laws, which may involve the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting

such denial of the following remedies and shall require implementation of the first of the remedies set out below, or on the first combination thereof which would remedy such denial;

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 203;

(e) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 203 and 204 of this Act.

TRANSPORTATION OF STUDENTS

SEC. 203. (a) No court, department, or agency of the United States shall, pursuant to section 202, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency shall because of such shifts be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan to compensate wholly or in part for such shifts in school population.

DISTRICT LINES

SEC. 204. In the formulation of remedies under section 201 or 202 of this Act, the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 205. Nothing in this Act prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

REOPENING PROCEEDINGS

SEC. 206. On the application of an educational agency, court orders, or desegregation plans under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this Act and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this Act. The Attorney General shall assist such educational agency in such reopening proceedings and modifications.

TERMINATION OF ORDERS

SEC. 207. Any court order requiring the desegregation of a school system shall be terminated, if the court finds the schools of the defendant educational agency are a unitary school system, one within which no person is to be effectively excluded from any school because of race, color, or national origin, and this shall be so, whether or not such school system was in the past segregated de jure or de facto. No additional order shall be entered against such agency for such purpose unless the schools of such agency are no longer a unitary school system.

TITLE III—DEFINITIONS

SEC. 301. For the purposes of this Act—

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801 (k) of the Elementary and Secondary Education Act of 1965.

(b) The term "local educational agency" means a local educational agency as defined by section 801 (f) of the Elementary and Secondary Education Act of 1965.

(c) A "dual school system" is one in which students are assigned to schools solely on the basis of race, color, sex, or national origin for the purpose of segregating such students in schools of the system.

(d) A "unitary school system" is one in which an educational agency is not effectively excluding any person from any school because of race, color, or national origin, whether or not such school system was in the past segregated de jure or de facto.

(e) The term "segregation" means the operation of a school system in which students are assigned to schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(f) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. Section 709 (a) (3) of the Emergency School Aid Act is hereby repealed.

SEPARABILITY OF PROVISIONS

SEC. 402. If any provision of this Act or of any amendment made by this Act, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this Act and of the amendments made by this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

By Mr. TAFT:

S. 621. A bill to amend title 5, United States Code, to provide for withholding city income taxes from compensation paid Federal employees. Referred to the Committee on Finance.

Mr. TAFT. Mr. President, today I am reintroducing legislation which would require the Federal Government to withhold city income taxes from its employees. This legislation would benefit directly hundreds of thousands of Federal workers.

Because local income taxes are not withheld from the 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 last winter, one third of Cleveland's postal workers had not been able to meet this obligation, and owed the city hundreds of dollars per person in back taxes.

This legislation would allow Federal workers to pay their city taxes in the same convenient manner as other workers, by making the payments in even installments throughout the year.

The legislation would also provide some extra money for the cities. Because the cities' tax collection departments will no longer have to devote extra attention to Federal workers, administrative costs will decrease. In my own State of Ohio, the city of Akron, Columbus, and Toledo expect that they could each save $20,000 to $35,000 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 delinquent taxes. Cleveland's tax department has estimated that because of fewer losses in uncollected taxes, the city's income could be increased by $300,000 to $400,000 annually. The city of Cincinnati expects the enactment of this bill to save its taxpayers about $100,000. Similar savings would be realized by cities in other States.

My bill 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 my legislation acceptable to all concerned and thus facilitating its passage, I have included this amendment.

The major organizations representing groups which my legislation 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' associations. The Treasury Department and the Office of Management and Budget have historically supported legislation along these lines, and I have been informed that their positions have not changed.

Legislation identical to this bill was passed by the Senate during the 92d Congress, but the House of Representatives did not have time to act on the measure. The House passed similar legislation several years ago.

I hope that during the 93d Congress, 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 the legislation be printed in the RECORD at this point.

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

S. 621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (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 under subsection (a)) of sixty 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:

"SEC. 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.

By Mr. HANSEN (for himself and Mr. MCGEE):

S. 623. A bill to authorize the Secretary of the Interior to reimburse the Shoshone and Arapahoe Tribes of the Wind River Reservation in Wyoming for tribal funds that have been used for the construction, operation, and maintenance of the Wind River irrigation project, Wyoming. Referred to the Committee on Interior and Insular Affairs.

Mr. HANSEN. Mr. President, today, on behalf of myself and the senior Senator from Wyoming, Senator MCGEE, I am introducing legislation which would authorize the Secretary of the Interior to reimburse the Shoshone and Arapahoe Tribes of the Wind River Reservation in Wyoming for tribal funds that have been used for the construction, operation, and maintenance of the Wind River irrigation project, Wyoming.

It is estimated that $75,827.84 was expended on an irrigation project that benefited only certain individual members of the tribe. Congress has recognized that such expenditures are not tribal irrigation costs, and has reimbursed the tribes in the past for such expenditures. By the act of May 18, 1916, Congress reimbursed the tribes of the Blackfeet, Flathead, and Fort Peck Reservations for tribal funds that had been expended on behalf of individuals rather than for the tribes on the operation and maintenance of irrigation projects.

As recently as 1970, Congress passed the act of September 18, 1970, which reimbursed the Ute Tribe of the Uinta and Ouray Reservation tribal funds that had been expended in the construction, operation, and maintenance of the Uinta Indian irrigation project. This act, as would this bill, also provided for payment to the tribe of interest on its money at 4 percent from the date of expenditure to the date of enactment. Precedent for this provision is contained in the act of May 25, 1948, which authorized the outstanding payment to reimburse the Kootenai Tribes of the Flathead Reservation, Mont.

In light of the favorable past actions of Congress, I request that this bill be assigned to the appropriate committee and early action be taken.

By Mr. MOSS:

S. 626. A bill to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes; and

S. 627. A bill to amend the Internal Revenue Code of 1954 to provide that the first $4,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income. Referred to the Committee on Finance.

S. 628. A bill to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married; and

S. 629. A bill to increase the contribution by the Federal Government to the costs of Federal employees' health benefits insurance, and for other purposes. Referred to the Committee on Post Office and Civil Service.

CIVIL SERVICE RETIREMENT BILLS

Mr. MOSS. Mr. President, in this session of Congress, a number of bills will be introduced whose purpose is to enable senior American citizens to live with the security and dignity to which they are entitled. I urge the Congress to give all these bills the fullest consideration and topmost priority. Today I am introducing four bills representing only a small portion of the task before us in meeting the needs of our elderly. These bills would provide some measure of assistance to one group of senior citizens—the civil service annuitants—who are now in the midst of a financial crisis. Federal workers who retired prior to 3 years ago face financial problems that are particularly acute. Their retirement income is fixed by outmoded formulas, and they have seen the value of this income steadily eroded by inflation. The primary purpose of the legislation I am introducing is simply to alleviate some of the financial burden on some of these older civil service annuitants, and to bring them into a more equitable position compared with more recent retirees. These four bills, with one or two minor adjustments, are part of the legislative program of NARCE, the National Association of Retired Civil Service Employees.

The first of the bills would provide an increase of $25 per month for all annuitants who retired prior to October 1969. This would exclude from the increase those who retired after the new formula for computing annuities was put into effect—the high- 3-year formula that has resulted in larger annuities for many people. It would also exclude those who have benefited by the pay raises for classified civil service employees in the past 4 years. It would help mostly the low-income retirees who retired during the period of lower pay scales.

In addition, the bill would set the minimum annuity at a level equal to the minimum amount that may be received under social security. At present, there are approximately 110,000 civil service retirees who receive less than $84.50 per month, which is now the minimum social security benefit. Surely, it is no more than a basic question of equity to see that these low income retirees receive the same minimum amount that they would receive if they were under social security. And surely, $84.50 per month is not too much to ask at this time for Government servants who have devoted many good years of their lives to programs that benefit us all.

The second bill I am introducing would exempt from gross income for Federal income tax purposes the first $4,000 of a civil service annuity.

This would give to civil service retirees a measure of the tax advantages already granted to social security and railroad retirement beneficiaries, whose maximum retirement pension is free from Federal income tax. The top amount that can be drawn and that is tax exempt under the railroad retirement system is about $8,000, and under the social security system the amount is more than $4,000. So the bill for $4,000 tax exemption for civil service annuitants is certainly fair and reasonable.

The third bill would increase the Government's contribution toward premium costs under the Federal employees health benefits program from the present 40 percent to 50 percent. My colleagues will remember that the 40 percent level was achieved in the 91st Congress, but was lower than some of us felt it should be. As a result, the Senate last session passed a bill that would increase the Government's share to 45 percent, and the House passed a bill that would eventually increase the contribution to 75 percent. Unfortunately, discussions in conference committee broke down over the question of whether to include postal workers in the new health benefits program, and no increase ever went into law. The bill I am now introducing provides for only a slightly greater Federal contribution than was approved by the Senate last session. An equal sharing by the Federal Government and the insured Federal worker would bring the Federal level more in line with that of private industry.

The final bill would provide restoration of a full annuity when a retiree has been predeceased by the designated survivor and has not remarried. Again, this is a bill which grows out of legislation enacted in the 91st Congress. In that Congress a bill which I introduced—S. 437—provided that when a spouse who had been designated as a survivor to a civil service annuity dies first, the surviving spouse could designate a second spouse to receive those benefits, provided that marriage had been in effect 2 years at the death of the retiree. The bill likewise provided that if a survivor spouse died, the retiree could begin receiving a full annuity instead of a reduced annuity. The first part of the bill was passed and became public law but the second part of the bill was dropped.

The bill I am introducing today provides that when the survivor has predeceased the retiree, and no other spouse

has been acquired to eventually receive the benefits being paid for, the retiree can apply for restoration of full annuity during the period of no marriage. This is most certainly equitable.

Mr. President, I am not claiming that we will reach any far-reaching solutions by passing these bills. These are modest bills, and I introduce them simply in the name of fairness and equity. They would provide one group of our senior citizens with some portion of what they are entitled to. There obviously remains a great deal more to be done in order to see that senior citizens retain honored places in American society.

I ask unanimous consent that the texts of all the bills be printed in the RECORD at the close of my statement.

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

S. 626

A bill to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"(o) The annuity of an employee or Member retiring under this subchapter, or prior comparable provision of law, shall in no event be less than 12 times the smallest primary insurance amount (including any cost-of-living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act."

SEC. 2. Section 8341 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The annuity of a survivor payable under this subchapter, or prior comparable provision of law, shall in no event be—

"(1) in the case of a surviving child, less than 36 times the smallest primary insurance amount (including any cost-of-living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act divided by the number of children; and

"(2) in the case of any other survivor, less than 12 times such primary insurance amount (including any such cost-of-living increase."

SEC. 3. (a) An annuity payable from the Civil Service Retirement and Disability Fund to an annuitant as the result of a separation from service occurring prior to October 20, 1969, shall be increased by $300.

(b) An annuity payable from that Fund to the surviving spouse of an annuitant, as the result of a separation from service of the annuitant occurring prior to October 20, 1969, shall be increased by $165.

SEC. 4. This Act (other than this section) shall become effective on July 1, 1973. Increases in annuities provided by this Act shall apply with respect to a monthly payment of any annuity made for any month commencing on or after July 1, 1973.

S. 627

A bill to amend the Internal Revenue Code of 1954 to provide that the first $4,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125, and by inserting after section 123 the following new section:

"SEC. 124. RETIREMENT ANNUITIES PAID BY THE UNITED STATES OR ANY AGENCY THEREOF

In the case of an individual who receives annuity payments as an annuitant or survivor annuitant under subchapter III of chapter 83 of title 5, United States Code, or prior comparable provision of law, gross income does not include amounts received under that annuity during the taxable year equal to the greater of—

"1) the amount excluded from gross income for that taxable year under section 72, or

"(2) an amount not in excess of $4,000."

SEC. 2. The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by striking out

"Sec. 124. Cross references to other Acts."

and inserting in lieu thereof:

"Sec. 124. Retirement annuities paid by the United States or any agency thereof.

"Sec. 125. Cross references to other Acts."

SEC. 3. (a) Section 37 (d) (1) of the Internal Revenue Code of 1954 (relating to limitation on retirement income) is amended by striking out "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) under subchapter III of chapter 83 of title 5, United States Code, or prior comparable provision of law, or".

(b) Section 72 (p) of such Code (relating to cross references to other Acts) is amended to read as follows:

"(p) Cross References.—

"(1) For limitation on adjustments to basis of annuity contracts sold, see section 1021.

"(2) For additional exclusion of amounts received under a United States civil service retirement plan, see section 124."

SEC. 4. The amendments made by this Act shall apply with respect to taxable years ending after the date of the enactment of this Act.

S. 628

A bill to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8339(j) of title 5, United States Code, is amended by inserting immediately after "is reduced" a comma and the following: "for any month during which that employee or Member is married for any portion of the month,".

SEC. 2. The amendment made by this Act shall only apply with respect to monthly payments of annuities paid for any month commencing on or after the date of enactment of this Act.

S. 629

A bill to increase the contribution by the Federal Government to the costs of Federal employees' health benefits insurance, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8906(a) of title 5, United States Code, is amended by striking out the number "40" and inserting in lieu thereof the number "50".

(b) The amendment made by subsection (a) of this section shall become effective at the beginning of the first applicable pay period commencing after December 31, 1973.

SEC. 2. (a) Notwithstanding any other provision of law, an annuitant, as defined under section 8901(3) of title 5, United States Code, who is participating or who is eligible to participate in the health benefits program offered under the Retired Federal Employees Health Benefits Act (74 Stat. 849; Public Law 86–724), may elect, in accordance with regulations prescribed by the United States Civil Service Commission, to be covered under the provisions of chapter 89 of title 5, United States Code, in lieu of coverage under such Act.

(b) An annuitant who elects to be covered under the provisions of chapter 89 of title 5, United States Code, in accordance with subsection (a) of this section, shall be entitled to benefits under such chapter 89.

By Mr. NELSON (for himself, Mr. METCALF, Mr. EAGLETON, Mr. HUMPHREY, Mr. MONDALE, Mr. CHURCH, Mr. CRANSTON, Mr. CASE, Mr. MCINTYRE, Mr. WILLIAMS, Mr. JAVITS, Mr. ERVIN, Mr. PELL, Mr. RANDOLPH, Mr. MUSKIE, Mr. FULBRIGHT, Mr. PERCY, Mr. SCHWEIKER, Mr. HUGHES, Mr. HATFIELD, and Mr. RIBICOFF):

S. 630. A bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails. Referred to the Committee on Post Office and Civil Service.

POPULATION INFORMATION, POPULAR GOVERNMENT, AND SECOND-CLASS POSTAL RATES

Mr. NELSON. Mr. President, for all of the 178 years that the U.S. Congress exercised the singular responsibility for setting mail rates for printed publications, a basic proposition of self-governing democracy was honored with low rates of postage: An essential educational service in keeping the American people informed with a full range of ideas and opinions is performed by the widest possible distribution of newspapers, periodicals, and journals. Since 1792, the low postal rates which were set by Congress for the distribution of second-class publications through the mails was recognized as a form of national subsidy which was justified by the educational function and a significant contribution to the self-governing aspect of citizenship.

In February 1971, the newly formed independent U.S. Postal Service created by the Postal Reorganization Act of 1970 requested rate increases for second-class mail that would have averaged 143 percent over a 5-year period. When this proposal was instituted on a temporary basis in May of 1971, it became obvious that this action threatened to stifle the free flow of ideas and information in this country and to effectively silence some of the most independent journals and publications throughout all parts of the Nation. Of particular concern is the impact of the Postal Service proposal for second-class rates upon the smaller, more specialized and less profitable newspapers and magazines which fuel

the national competition of ideas with new thoughts, divergent opinions, and singular points of view.

On June 28, 1972, I introduced legislation in the 92d Congress to reemphasize the 178 years of direct congressional support for the dissemination of news, opinion, scientific, cultural, and educational matter through the mails. More importantly, a lengthy statement which accompanied the introduction of S. 3758 detailed the philosophical and legislative history of preferential postal rates for printed publications. This statement focused congressional and public attention on the dire threats to a vital educational factor of self-government that would be made by the suggested postal rates for second-class matter. It also pointed out that in ending congressional support since 1972 for printed matter sent through the mails, the U.S. Postal Service was misreading the intent of the 1970 Postal Reorganization Act and substituting a single-minded concern for postal revenue for the larger public interest of providing a basic and fundamental service to the American people.

On June 29, 1972, the Board of Governors of the U.S. Postal Service announced that so-called permanent postal rates would be placed in effect on July 6, 1972. Two days after the Independence Day celebration last year, second-class postal rates were "permanently" increased an average of 127 percent phased in over a 5-year period.

Because "temporary" rate increases were already in effect, the next impact will not be felt by most publications until July 6 of this year when the second phase of the "permanent" rates is implemented. However, the experience under the "temporary" increases and the first year of the "permanent" increases in second-class mail rates indicated that many important sources of news and opinion are severely affected already.

National headlines, editorials, and columns last December paid respect to the demise of Life, as the last great, mass-circulation magazine in the Nation folded. Life's officers cited postal rate increases of 170 percent over the next 5 years as one of the terminal conditions which sent this important publication to join the likes of Collier's, the Saturday Evening Post, and Look. Looking beyond the experience of large mass-circulation magazines with significant advertising support, however, it is apparent that the heaviest burden of these rate increases will fall on the smaller, less profitable magazines and newspapers that serve smaller, more specialized audiences with a more specific point of view.

There will be no headlines when a small religious publication or rural newspaper must cease serving the public, and I doubt that it will attract much attention when some small magazine of diverse intellectual or artistic expression can publish no longer. But it will not only be the individual subscribers who no longer can receive the benefits of a special point of view who will be the lesser for the loss; the entire Nation is weakened when one voice is silenced and its contribution to lively public discussion of politics, literature, science, education, and other items of national importance is ended.

There are some important signs that the impact of second-class mail rates on the national dialog is receiving a wider and more influential audience. At the end of last Congress, the chairman of the House Postal Service Subcommittee introduced legislation on the subject of second-class mail rates and indicated that newspapers and magazines are far too important a communications medium in our society to run the risk of threatening their very existence. Congressman UDALL also indicated that this subject should be a matter of first priority in this Congress.

On January 16, 1973, the chairman of the Senate Post Office and Civil Service Committee, Senator MCGEE, voiced his conviction that the American public generally has a vested interest in the survival of newspapers and magazines. In introducing a legislative proposal on the subject of second-class rates and other postal matters, Chairman MCGEE indicated that hearings before his committee would be scheduled soon to allow the public and the publishers to articulate and defend their case.

With these impending hearings in mind, and with the particular contributions to American self-government that are made by the small, virtually nonprofit independent publications which serve the public interest at stake, I am today reintroducing legislation to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails.

First of all, this legislation would amend the policy section of the Postal Reorganization Act of 1970 to make it abundantly clear that the Postal Service has an obligation to provide postal services at rates which will encourage and assist the wide publishing of information and differing points of view on all issues of interest to the country.

Second, this bill would set the second-class postal rates at the level of June 1, 1972, for the first 250,000 issues of newspapers and magazines sent through the mails. These rates include the approximately 33⅓ percent increase in second-class charges that were put into effect on a temporary basis last May. This provision would be of particular support to the smaller, almost nonprofit independent journals of opinion that already exist. It would also encourage the entry to new publications of this type and provide continuing outlets for divergent views and fresh ideas.

Any future increase in second-class rates for issues over the 250,000 copy ceiling would be phased in during a 10-year period under this bill. This 10-year period would apply only to increases on editorial content, and any increases for advertising material would be implemented during 5 years as is presently the law for both categories.

Finally, and perhaps most important for many small publications, this legislation would expressly write into law longstanding congressional policy against per piece surcharges on individual issues of second-class publications.

The preservation of a free press and the encouragement of the widest possible dissemination of news and opinion in this country to support the public in their active participation in the process of self-government is a battle that has been fought and refought in this country since colonial times. In that period, the battle was to initiate some form of public education and information. Our early American leaders recognized that an essential feature of liberty and democracy was an informed citizenry. They fought successfully to overthrow the position exemplified in a statement made by the Governor of Virginia, Sir William Berkeley, in 1642:

> I thank God that there are no free schools nor printing, and I hope we shall not have these hundred years: for learning has brought disobedience and heresy and sects into the world, and printing has divulged them, and libels on the best governments. God keep us from both:

The answer to Sir William, of course, was a revolution of arms and ideas fueled by the thoughts and writings of two of Virginia's most illustrious sons, Thomas Jefferson and James Madison. Madison knew that popular government can only exist when there is popular information:

> Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

Thomas Jefferson knew that while free and lively public discussion will be subject to error and falsehood, such mistakes are an unavoidable part of participatory democracy and "Error of opinion may be tolerated where reason is left free to combat it."

To obtain the information and opinions necessary for "knowledge," our early leaders realized that a wide range of thought must not only be tolerated, but actively encouraged. Forceful wide-ranging inquiry and discussion has been the method of seeking moral and political truth since the time of the Greeks and the Socratic dialogs. As explained by Aristotle:

> The ability to raise searching difficulties on both sides of a subject will make us detect more easily the truth and error about the several points that arise.

An open forum for the lively discussion of fact and fancy implies toleration for a wide range of raw information and divergent views. The justification for this tolerant view of expression is that it is essential for the full examination of any and all opinion. For America to be truly a self-governing democratic nation, it must publicly examine its life and its institutions on a continual basis.

The necessity for an active pursuit of information and opinion in a democracy is perhaps best explained by Walter Lippman in a passage from "The Indispensable Opposition" published in the Atlantic Monthly in 1939:

> The unexamined life, said Socrates, is unfit to be lived by man. This is the virtue of liberty, and the ground on which we may best justify our belief in it, that it tolerates error in order to serve the truth. When men are brought face to face with their opponents, forced to listen and learn and mend their ideas, they cease to be children and savages and begin to live like civilized men. Then only is freedom a reality, when men may voice their opinions because they must examine their opinions.
>
> The only reason for dwelling on all this is that if we are to preserve democracy we

must understand its principles. And the principle which distinguishes it from all other forms of government is that in a democracy the opposition not only is tolerated as constitutional but must be maintained because it is in fact indispensable.

When the Board of Governors made their announcement on "permanent" postal rate increases last June 29, the Chairman of the Board stated that—

(T)he Governors recognize that the increased rates will work a temporary hardship on some users.

If the pain of death can be considered as only temporary to some second-class publishers, it will be much more lasting to the American public who will be without the contribution of these newspapers and magazines.

This shortsighted view of the threat to publishers throughout the country was repeated in the remarks of the Postmaster General of the United States in a New York Times article on August 2, 1972. Mr. Klassen opened his article by stating:

(W)e read a great deal today about unnamed magazines and newspapers facing what is asserted to be a catastrophic situation allegedly caused by recently authorized postal rate increases.

He then went on to focus attention on only one major national publisher, Time, Inc., and to assume that all publications would be increased by the 127-percent average over 5 years, and that, furthermore, postal rates only represent a small portion of the costs of all magazines.

As far as the "unnamed magazines and newspapers" are concerned, virtually all of the communications which I have received on this subject over the past months have been very eloquent in stating the position of their named publication and the impact of the rates. While the Postmaster General's claim that Time, Inc., could absorb the increased rates, that did not prevent the demise of Life or satisfactorily answer the implication of the postal rates in Life's final agonies. What is more important, however, is that many, many small diverse publications—agriculture newspapers, the religious press, labor journals, and intellectual magazines—face postal rate increases many times greater than 127 percent. In addition, those many publications which face increases well above 127 percent are also newspapers or magazines in which postal rates represent a larger percentage of their costs, and which are virtually nonprofit and therefore unable to shift the burden of the increases to either subscribers or nonexistent advertisers.

It is these voices—the little press, the controversial, the opinion press—which serve the specialized interests of some Americans and the basic interest of all America. Their voices may not be heard or acknowledged in the corporate boardroom of the U.S. Postal Service where the singular preoccupation appears to be efficiency and bigness, but I do not believe that the case of the small but vital independent voice of journalism will be unheard or unappreciated in Congress.

Many articulate comments on the second-class rate increases have been sent to me by a wide range of publications in Wisconsin and throughout the country. The following sampling of their thoughts and viewpoints is an expression of the issue at stake and direct testimony from the publications that must bear the burden of these increased rates. Though small in size, I think these publications speak loudly about a matter of basic concern for popular information, and therefore of basic concern for popular government:

Mrs. Jeff Dean, Editor, Wisconsin Trails, Madison, Wisconsin: "(A)s the editor of a small (roughly 25,000 circulation), 'virtually nonprofit' quarterly that is totally without advertising, I can only wish you and S. 3578 every success in Congress."

Charles M. Phillips, Executive Director, Wisconsin Catholic Conference, Madison, Wisconsin: "There is great danger, I believe, that the proposed increase in U.S. Postal Service rates would put many of our diocesan newspapers out of business."

Robert Berglund, Publisher, Tribune-Record-Gleaner, Loyal, Wisconsin: "My newspaper, the Tribune-Record-Gleaner, is one that has felt the increase in postage. The communities of Greenwood, Loyal and Spencer which I serve were on the brink of losing their newspaper several years ago. I was able to merge the Loyal Tribune, the Spencer Record and the Greenwood Gleaner into one newspaper to serve the three communities. Without this merger these communities would be without a newspaper, the official voice of the community.

"Yet the continuation of a newspaper to serve these communities, or any other community in this country still face a challenge. . . . I'm sure community newspapers through the nation are all faced with the same problem."

Harry A. Palmiter, Managing Editor, The Cheese Reporter, Wisconsin: "We have seen considerable change, during the past 22 years, of publications in the dairy industry field alone. There would be little doubt that some of the reason for the discontinuance of some of these publications and the merging of others has been influenced by the increased costs of mail service.

"By the same philosophy you expound in your statement of June 28, 1972, the little tabloid newspaper called The Cheese Reporter is about to begin its 97th year of publication, certainly based on the success of its having carried out a free flow of ideas and information to a specific industry.

"By either size or circulation volume we can hardly call ourselves a major factor in the publishing field, but we do know positively that most of the influential members of the nation's—and many of the world's—cheese industry faithfully subscribe to and read The Cheese Reporter for its value to them as part of the industry.

"We appreciate your concern over the dramatically proposed postal increases and their effect on the press, both as publishers of a very small publication and as journalists who believe firmly in the opportunity to serve an industry through information and awareness of issues."

Philip S. Habermann, Executive Director, State Bar of Wisconsin, Madison, Wisconsin: "Thank you for your letter expressing your views on the sizeable increase of second class mail rates.

"I concur with you completely.

"As administrator of the State Bar, I have noted a drastic increase in the cost of mailing our Wisconsin Bar Bulletin with second class rates. I have not actually been called upon to complain about that, since certainly the lawyers can afford the increases.

"However, I have always believed that freedom of information, and the continued circulation of a wide variety of publications is essential to the well-being of the population. I dislike very much seeing the postal services attempt to load all of the costs which they can total up to the second class mail."

Anthony Van der Linden, Business Manager, Milwaukee Publishers, Inc., Milwaukee, Wisconsin: "The dissolution of news publications because of prohibitive postal rate increases is a distinct reality. And their dissolution can only mean a retrenching of our employees in the printing trades.

"We need the voice of the opposition when it is necessary to 'take on the big daily press.' If that voice is stilled we will only hear that which the big daily media wants us to hear. This certainly is not what America stands for."

Paul H. Poberezny, President, Experimental Aircraft Association, Franklin, Wisconsin: "Freedom of speech and the press have always been cornerstones of democracy, and, as you so eloquently point out, nothing has changed since the 1780's—if anything, in this day of instant, electronic 'news' we need the sobering, reflective virtues of the printed media more than ever before.

"Our monthly publication, *Sport Aviation*, would be very seriously threatened by the proposed second class postage increases. Nearly 33,000 citizens would be deprived of a forum from which they can freely exchange their views and knowledge on a subject that is very important to them."

Eugene R. Brauer, Business Manager, Milwaukee Labor Press, Milwaukee, Wisconsin: "Extinction is exactly the terminology that should be used, for should the USPS announced guidelines be upheld many of us would be forced to close up shop, eliminating the jobs of our employes along with those of workers in the allied printing trades. Equally important is the fact that the voice of opposition, and in our own instance, the voice of the working person would be silenced.

"The voice of the big daily newspaper, and big business would however continue. These publications do not rely on use of the mails for their distribution. We cannot continue to raise advertising rates and still remain competitive. We do not have the financial structure so common with the big press that grants a big reduction for placing the same advertisement in their morning publication as placed in their evening newspaper. Such is true of the operation of the Journal and Sentinel among others.

"Dissenting viewpoints admittedly are part of our American way of life. By stifling the free flow of information you sever the lifeline of democracy."

R. H. Fackelman, Gulf Coast Newspapers, Inc., Panama City, Florida: "In another company affiliated with this—Newspaper Service Company, Inc.—I see new and fresh evidences every day of the threats you envision. Small town publishers are wanting to sell their papers . . . and the market is slipping away rapidly. The postage hikes are just one of the factors . . . but this seems to hurt the most in that there is no way of minimizing its impact.

"There is much, much more to the story as you well know. I only wish it were possible to enable all members of your august body meet a few of these proud publishers who are experiencing declining incomes against rising costs and who realize that this new inroad can put a '30' on the career they chose so many years back.

"And, like you, I feel that the loss of this grass roots press would leave a tragic hole in the nation's well being."

Frank W. Mayborn, President, Frank W. Mayborn Newspapers, Temple, Texas: "Surely much of the strength of this country has been brought about by and fortified through the medium of public information. This has been made possible largely through mail channels, and I feel that if this avenue of information is stifled through high postal

rates, the American people will not be afforded the opportunity to know just what is happening in our country on a day to day basis.

"The larger this nation grows, the greater the importance that our citizenry be well informed, for if they are not given the opportunity to learn, then they will be subject to the convincing arguments of rascals as well as good intentioned people. It is only through mass circulation of viewpoints, both pros and cons, that enables a citizen to determine just what is right. He may not make the right decision every time, but in the general consensus he will be well enough informed to come up with the right answer. Certainly everything that is written and disseminated is neither good for the public nor is it the truth. Therefore, it is necessary that he receive a wide distribution of information."

John M. Jones, President, Greeneville Publishing Company, Greeneville, Tennessee: "The small weeklies and dailies that are forced to use rural mail delivery are the ones that will suffer most from the present drastic steps taken by the Postal Department in increasing postal rates 145 percent over a period of five years.

"Already, small newspapers have felt the effect of increased rates, not only in more marginal operations, but forcing them to increase mail rates to the point that they will probably be losing circulation within the next year or two, especially in the smaller publications.

"The community newspapers which largely serve their own county or the fringe areas around their own counties have been an essential part of the information syndrome in this country since its very beginning. If the tremendous increases in postage costs are followed through by the postal service, then it will eliminate a great deal of this circulation and eliminate also a great deal of the information on community operations and affairs that these publications produce.

"Metropolitan papers will not cover news in depth in the county courts, in the school boards, in the beer board hearings, and especially in those agencies that affect the tax base of the people of these communities. It is the small town press that deals in these stories that inform people of what is happening to them before it is too late for them to react.

"(I)t is absolutely essential, but only to the small press of this nation, but for the information of the people on subjects which the magazines and metropolitan press simply ignore."

George Jagolinzer, Circulation Manager, Rutland Daily Herald, Rutland, Vermont: "The U.S. Postal Service maintains the reason for increased 2nd class postal rates that went into effect last May and the proposed new increase in rates is due to the fact that they must secure attributing costs to maintain the postal service on a paying basis. First of all, no other government agency makes added charges for maintaining their service. On top of that fact, a portion of everyone's taxes goes to pay for this service and he pays additional taxes when he purchases a stamp. Along with this, many voters in the State of Vermont, as an example, live in a rural area and live on a limited income. The increased cost of a daily newspaper coming to them through the mail places a substantial financial burden on them. In many cases, they have been unable to continue to have a newspaper mailed to them. This fact is borne out by *our own 10 percent loss in mail subscriptions since the increase in price.* This is a loss of revenue to the Rutland Herald and the U.S. Postal Service.

"As you may very likely be aware, the newspaper publishing business is a peculiar one in that the cost of producing each issue far exceeds the selling price, despite rate increases over recent years. Substantially increased postage costs merely aggravates this unusual situation. Revenue to make up this deficit and ensure a reasonable profit can only come from increased product prices (single copy and subscription rates) and/or advertising rates, both of which are now Government controlled. While you can only go to the well just so often, it is particularly true in a rural state with relatively little economic and population growth."

RESOLUTION REGARDING SECOND-CLASS POSTAL RATES

The Louisiana Baptist Convention, Alexandria, Louisiana: Passed by the Executive Board of the Louisiana Baptist Convention in regular session September 26, 1972:

Whereas second class postal rates for non-profit publications have increased 38% since April, 1972; and

Whereas they are scheduled for a total increase of 350% over a period of years; and

Whereas this affects churches as well as religious publications: Therefore be it

Resolved, That the Executive Board of the Louisiana Baptist Convention express its support of the bills recently introduced into both the Senate and the House of Representatives of the United States Congress to freeze the postal rate of second class publications; and be it

Resolved further, That copies of this resolution be sent to Senator Gaylord Nelson and Representative Robert F. Drinan who introduced the bills, Senator Russell B. Long and the senator-elect, Louisiana members of the House of Representatives, the Chairman and Vice-Chairman of the Senate Post Office and Civil Service Committee, and the Chairman and the Vice-Chairman of the House Post Office and Civil Service Committee.

Paul F. Rubinstein, Manager, Jewish Daily Forward, New York, New York: "As a small newspaper serving a readership scattered throughout almost every state of the union we are vitally interested in your proposed legislation. Neither we nor our readers who are mostly elderly people can afford such rising costs."

Albert P. Stauderman, Editor, The Lutheran, Philadelphia, Pennsylvania: "The impact of the proposed increases in second-class postal rates will make it difficult and perhaps impossible for non-profit publications to survive. In our own case, the cost of mailing to our 530,000 subscribers could rise from the present $72,000 annually to about $240,000."

David A. Wilson, The American Lutheran Church Office of Public Relations, Minneapolis, Minnesota: "I edit a small tabloid for the Southwestern Minnesota District of The American Lutheran Church on a part-time basis. It is mailed to about 46,000 homes in the district, the entire membership of this 1-18th segment of The American Lutheran Church. The reports of proposals for rate increases of a year or so ago would place the future of this publication in serious question. Beyond the proposal for the increase is the method of budgeting, the budget being adopted each spring for the coming year (the 1973 budget was adopted in May of 1972)."

Spurgeon M. Dunnam, III, The Texas Methodist, Dallas, Texas: "Having been notified on July 5 of a 60%-plus increase in rates, effective on July 6, our publication is still suffering under the hasty and drastic action taken by the U.S. Postal Service (With 160,000 subscribers, this represented an increase of over $250.00 weekly.)

"I, for one, do not wish to be classed with those who say: 'postal increases will put us out of business.' Most publications, if they are worth continuing, will find some way to do so.

"However, the type of sudden and drastic increase which we recently received, does work an extreme hardship on publications such as ours, which operate with minimal reserves and no profit. For us to suddenly up our rates, would create such ill-will that we would lose many subscribers. Unfortunately, the U.S. Postal Service seems not to care about the non-monetary effects of its precipitous action."

Reverend Owen F. Campion, the Tennessee Register, Nashville, Tennessee: "In the last two years, Senator, the Tennessee Register's fiscal policy has greatly been dominated by the threat of postal rate increases which could not be realistically sustained. We have reduced the actual size of the newspaper to decrease weight and have curtailed the number of issues. Indirectly, we have relentlessly followed a close cost control practice.

"If the rates as proposed for the mailers of our category by the U.S. Postal Service do go into effect, even these measures will be inadequate. Significant increase in our subscription charge would ultimately limit our readership appeal so that our circulation could not be maintained at its present or near levels. Our alternative, frankly, would be to discontinue publication.

"The Tennessee Register is in the 36th year of its life. . . . (W)e serve citizens residing in 74 of Tennessee's 95 counties. We are gratified by the local and national recognition for services which we have rendered. And, since we must depend upon the mails for distribution, we would be most unhappy if the postal rates forced us to go out of business."

"Schedule 2—Second Class Phased Rates of Authorized Nonprofit Organizations, Outside County have been in effect long enough to judge their impact on nonprofit publications.

The following comparison based on May 1972 issue of St. Anthony Messenger illustrates the full impact to us, of the postal increases:

	Number of copies	Weight	Rate	Monthly postpaid	Yearly postpaid
May 1972	229,245	54,058	2.4	$1,297.40	
Plus per piece charge			.04	91.70	
Total				1,389.10	$16,669.20
September 1972	229,245	54,058	2.4	1,297.40	
Plus per piece charge			.2	458.49	
Total				1,755.49	21,065.88
After 10 annual steps	229,245	54,058	5.0	2,702.90	
Plus per piece charge			1.5	3,438.68	
Total				6,141.58	73,698.96

Note: The above does not include in-county postage, or the advertising portion of the issue, but only the editorial content.

The difference between now and the ten annual steps would increase our yearly postal bill by $57,029.76. Such an increase would seriously jeopardize the continued publication of St. Anthony Messenger. It is extremely doubtful that subscription revenue could be increased enough to offset the postage increase. If we raise our subscription cost sub-

stantially, as we would have to, to cover the added postage costs, past experience shows us that we would lose subscribers. With fewer subscribers, our unit cost for printing, editorial, etc., will rise, making it economically impossible to publish the magazine.

Nor is there any hope that advertising will be able to pay the added costs. The supplementary charge on the advertising portion of a nonprofit publication (if over 10% of total pages of issue) will also increase drastically. For example, the rates for the 8th zone, now .915, will increase to 17.7 in ten annual steps. This increase will certainly reduce any advertising net revenues and consequently our chances of survival."

(Reverend) ANDREW FOX, O.F.M.,
Publisher, St. Anthony Messenger, Cincinnati, Ohio.

"It is encouraging that a number of midwestern Senators have joined in the sponsorship of this important bill. It is in these states that the proposed postal increases on second-class mail will strike hardest.

Our own circulation structure provides dramatic proof of this. More than 50,000 of the 247,000 Des Moines Register subscribers get their newspaper by mail. Almost all of them live on RFD routes.

If the present postal service rates, including the surcharge (which is most damaging), are allowed to follow the proposed schedule, the increases per customer would amount to an estimated $9.60 annually, or slightly more than 223 percent as compared with the 127 percent mentioned in your letter.

Obviously, should these increases go into effect, we will have no choice but to increase circulation rates. There is no alternative method of delivery possible when fewer than four customers per mile must be served.

Just as obviously, these proposed higher rates would put the cost of our and other daily newspapers beyond the economic reach of thousands. In Iowa the daily Register is the primary and only complete source of information about activities in the state for many thousands."

DAVID KRUIDENIER,
President and Publisher, Des Moines Register and Tribune, Des Moines, Iowa.

"This journal was founded in the 1930's and is now the leading academic publication in the fields of mass communications and survey research. Many of the most significant scholarly studies in opinion-research of the past three decades have been reported in our pages.

Nevertheless, like so many other academic journals, our financial health is, at best, feeble. I would say that increasing our postal costs to the extent now proposed would put us on the critical list."

BERNARD ROSHCO,
Editor, The Public Opinion Quarterly, New York, N.Y.

"As you correctly point out, second class postage carries most of the 'thin and thoughful' journals of intellectual and scientific concern. Few of these publications in which many new and important ideas are first presented and tested are self-supporting, but those which are would certainly perish under the burden of a 127 percent increase in second class mail rates.

This magazine is an example. Founded in 1945 by the atomic scientists of Chicago, seeking to transfer the Promethean gift of atomic energy from military to civilian control, the Bulletin of the Atomic Scientists has become one of the leading journals of scientific opinion in the English language. And it would be severely crippled, if not extinguished, by such an unjustified increase.

The Postal Service exists to serve the interests of all the people. Whose special interest is being served by a rate increase that threatens to stifle the most sensitive segment of the American print media?"

RICHARD S. LEWIS,
Editor, Bulletin of The Atomic Scientists, Chicago, Ill.

"Thank you for your letter of 20 July and for the enclosed statement by you regarding the new postal increase for second-class materials. You can well appreciate our concern and that of all periodicals in this matter. And the effects of this unprecedented increase upon small, non-profit literary quarterlies like The Hudson Review might well be catastrophic. Your efforts in the Senate on our behalf, and on behalf of the right of all people to distribute and to have access to ideas and information, are heartening indeed and warmly appreciated by us.

FREDERICK MORGAN,
Editor, the Hudson Review, New York, N.Y.

"The application of the proposed 143% increase in postal rates over the next 5 years will be the death knell of many of these publications.

I am the firearms editor of two of these magazines. Both with circulations under 200,000 and both depending to major extent on the post office department to see that the subscribers get their monthly issues. To have you step into the breach and propose just and orderly increases—and in no event the extraordinary 143%—is muchly appreciated by people like myself!"

Colonel CHARLES ASKINS,
Guns Magazine, San Antonio, Tex.

"It was, of course, the intent of the Founding Fathers to see to a free press as the guarantee of ever-growing popular control of our republican institutions. Even though the hideous rise in second class rates does not strongly affect our magazines, American Heritage and Horizon, because they carry no advertising, they still hurt us and they will prove disastrous for some of the finest and most distinguished magazines this country possesses. Certainly Congress cannot have intended to do this when it set up the new postal service. The Post Office can no more be expected to make a profit than the street in front of one's house or the fire company down at the corner."

OLIVER JENSEN,
Editor, American Heritage Publishing Co., Inc., New York, N.Y.

54TH ANNUAL NATIONAL CONVENTION, THE AMERICAN LEGION

CHICAGO, ILL., *August 22, 23, 24, 1972.*

Resolution No. 501.

Committee: Finance.

Subject: Seek legislation to amend Postal Reorganization Act to afford relief to certain second-class mailers.

Whereas, The current postal rate schedule will increase the annual costs of mailing The American Legion Magazine in this decade by 235%, or from approximately $325,000.00 in 1972 to more than one million dollars by 1980 at a rate in excess of 20% each year; and

Whereas, This will constitute a serious financial crisis for The American Legion; and

Whereas, There is developing within the Congress of the United States a movement for relief from the exorbitant postal rate increases, and in keeping with the traditional and historic policy of the United States Congress of giving preferential treatment to nonprofit mailers engaged in presenting beneficial information to the public; Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Chicago, Illinois, August 22, 23, 24, 1972, that the National Legislative Commission petition the Congress of the United States to amend the Postal Reorganization Act in such a manner as to afford relief to authorized second-class mailers from the excessive rate increases, for example, by the deletion of the 1.5 cents per piece charge; and, be it

Further resolved, That this subject matter be accorded the highest legislative priority.

HERALD E. STRINGER,
Director, National Legislative Commission, Washington, D.C.

I'm sure the International Labor Press Association has conveyed to you the problems faced by labor publications in connection with the scheduled rate increases.

Let me add a comment from a broader viewpoint.

Thousands upon thousands of small publications have flourished in America in recent years because people have wanted alternative sources of information to supplement the stereotyped information they get from TV and large daily newspapers—media which are not seriously affected by the postal rate increases.

It would be a crying shame if higher postal rates should drive out of business these thousands of minority view publications and leave the people to subsist only on an intellectual diet of routine AP and UPI dispatches and the thirty second reports of the television commentators.

The Federal Government spends so much money in so many ways and subsidizes so many enterprises of dubious merit that it seems a shame that relatively modest subsidies to the Postal Service cannot be continued.

A. F. GROSPIRON,
President, Oil, Chemical and Atomic Workers International Union, Denver, Colo.

As a member of the International Labor Press Association, 1199 News and its publisher, Local 1199, Drug and Hospital Union, RWDSU, AFL–CIO, are in support of your bill to prevent the levying of damaging and, in some cases disastrous, postal costs on labor periodicals.

Your bill, in exempting the first 250,000 copies of such publications from the proposed surcharges, would spare the total mailing of our magazine from most of the increases. As a result, its passage would keep our members' funds free for increased services to them and for the ongoing effort to organize low-paid hospital employees.

The proposed costs, if realized, would add about 10 percent to the current cost of printing our monthly magazine by the fifth year of the increase schedule. By that year the increases would mean a hike of more than 150 percent in current postal costs, and by the tenth year of the schedule the increase in our postal costs would be more than 300 percent.

Our union is only one of the many whose members will suffer to some extent if the proposed increases go through. There are many other smaller unions publishing modest but nonetheless informative papers that would probably have to be abandoned completely.

MOE FONER,
Executive Secretary, Local 1199, Drug and Hospital Union, New York, N.Y.

"We of the Ohio AFL–CIO are deeply concerned and troubled over the recent—and proposed future—increases in second-class postal rates for non-profit organizations. These increases pose a serious threat to the continued existence of labor publications not only in Ohio, but the nation as a whole.

The Ohio AFL–CIO publishes a monthly magazine, "focus." A copy of it is attached. In April 1972, we mailed some 750,000 copies of "focus" at a cost of $2,258.20. The first step of postal rate increases that went into effect on July 6, 1972, boosted our August mailing

bill to $3,428.65 for the same number of copies. When all the steps of the rate increase are in effect, it will cost $13,395.60 each month to mail an identical number of copies of "focus" to our members. On a yearly basis it cost $30,323.80 to mail our 750,000 copies before the increase (we publish only nine issues per year). When the full increase is in effect, this will cost a staggering $120,560.40 to mail the same number of copies.

The Ohio AFL–CIO also publishes a weekly newsletter, "News and Views," which has a limited circulation of approximately 20,000 copies. The postal rate increases will have a similar effect on our mailing costs for this publication, but on a smaller scale.

Our state labor federation operates on a modest dues structure. The above-mentioned publications are financed out of these dues, and are already a tremendous strain on our operations budget. The rate increases for mailing these publications places the future of these publications in serious jeopardy.

In Ohio, there are some 150 publications printed by local unions and central labor councils. The postal rate increases will deal many of them an even harder blow because their fund limitations are more severe. Many of these publications will probably cease to exist because of this postal rate increase.

The need to keep our members well-informed is vital. Yet we recognize costs are rising, everywhere. The labor movement, as represented by the International Labor Press Association, has testified before the Postal Rate Commission that we will accept an increase in postal rates if they are needed. But the rate schedule as adopted by the Postal Board of Governors is discriminatory in nature because nonprofit organizations are being forced to pay a much higher percentage of increase than other classes of mailers. And, as you are well aware, the labor movement has had a proud tradition of being opposed to any discrimination. Whether it be in job opportunities, housing—or mailing rates."

WARREN J. SMITH,
Secretary-Treasurer, Ohio AFL–CIO, Columbus, Ohio

Mr. President, I ask unanimous consent that a copy of the legislation which I am introducing at this time be printed at this point in the RECORD and I further ask unanimous consent that a series of editorials from Wisconsin newspapers commenting upon this legislation, and several articles on the subject by Mr. David Lawrence and Mr. Tom Wicker which appeared in the Evening Star and Daily News and the New York Times, be printed in the RECORD following the text of the legislation.

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

S. 630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101(a) of title 39, United States Code, is amended by inserting after the second sentence the following new sentence: "The Postal Service shall also be obligated to provide postal services at rates which will encourage and support the widest possible dissemination of news, opinion, scientific, cultural, and educational matter."

(b) Section 101(d) of title 39, United States Code, is amended to read: "Postal rates shall be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis that takes into consideration all aspects of postal policy."

SEC. 2. (a) Subchapter V of chapter 36 of title 39, United States Code, is amended by inserting after section 3683 the following new section:

"§ 3683A. Prohibition against a per piece surcharge

"Notwithstanding any other provision of this title, the rates of postage established for matter mailed under former sections 4358 and 4359 of this title may not include a per piece charge that is added to the basic rate of postage established for such mail matter."

(b) The analysis of such subchapter, preceding section 3601, is amended by inserting between items 3683 and 3684 the following new item:

"3683A. Prohibition against a per piece surcharge.".

SEC. 3. (a)(1) Subchapter II of chapter 36 of title 39, United States Code, is amended by inserting after section 3626 the following new section:

"§ 3626A. Special publication rate

"Each rate of reduced postage adopted under section 3626 of this title for matter mailed under former sections 4358 and 4359 of this title shall be at the rates that existed for such matter on June 1, 1972, for the first two hundred and fifty thousand copies of each issue mailed. The sender shall determine which copies of each issue that are to be sent at the rates provided under this section."

(2) The analysis of such subchapter, preceding section 3601, is amended by inserting between items 3626 and 3627 the following new item:

"3626A. Special publication rate.".

(b) Section 2401(c) of such title is amended by striking out "and 3626" and inserting in lieu thereof "3626, and 3626A".

SEC. 4. Section 3626 of title 39, United States Code, is amended—

(1) by inserting in clause (1), after "4554 (b) and (c)", a comma and the following: "and for the nonadvertising portion of mail under former section 4359,"; and

(2) by amending clause (2) by—

(A) striking out "4359,"; and

(B) inserting after "4554(a)" a comma and the following: "and for the advertising portion of mail under former section 4359".

[From the Wisconsin Rapids Tribune, July 5, 1972]

EDITORIALS—MORE THAN DOLLARS INVOLVED IN PROPOSED MAIL INCREASES

Last week Wisconsin Sen. Gaylord Nelson took a strong stand against second-class mail rate increases proposed by the U.S. Postal Service.

Nelson contended the proposed increases "threaten to stifle the free flow of ideas and information and effectively silence some of the most important sources of competing independent journalism in the country."

The respected senator was not being overdramatic in his conclusion, and the facts support his stand.

The postal service's proposal calls for an average 142 per cent increase in rates for newspapers and magazines over the next five years. The service's board of governors appears ready to accept the proposals which include an additional per piece surcharge over the same period for these same mail users.

Congress' establishment of the independent postal service with a directive that it become efficient and self supporting was a sound move. Congress also declared that all users of the postal service should as nearly as possible pay the costs that are truly attributable to them, and again this seems reasonable.

However, up to this point the postal service has not established a solid case to justify raising second-class rates two and a half times at a time when most of the businesses affected are under federal wage-price guidelines.

Allocating costs among the different classes of mail just isn't that easy. The high overhead costs of operating a postal system would exist if there were no publications distributed across the country.

In addition, many magazine publishers and newspapers, including the Daily Tribune, sort, bundle and deliver their publications to the post office at their own expense. Meanwhile, other pieces of mail must be repeatedly sorted by postal employes en route to their destination.

This pre-sorting of second class mail cuts down considerably on the delivery costs of these items.

And it should be pointed out that the delivery of magazines and newspapers to the citizens of this country is an important part of the day-to-day operation of our democratic society. This is one of the points Sen. Nelson was making last week in his speech before the U.S. Senate.

Nelson noted it has been national policy since 1792 to aid the exchange of ideas and opinions by providing lower postage rates for newspapers, magazines and independent journals. He said the entire nation would suffer if the increases were allowed to go into effect because "the sustaining educational activities of democratic government would be stifled."

Many smaller publications such as independent opinion periodicals and weekly newspapers who rely heavily on mail circulation to rural areas would not be able to continue operations if they had to meet the financial burdens that would occur with proposed rate hikes.

This would be a most serious loss to this country where the free flow of information and ideas must be continued rather than limited.

Also for the Central Wisconsin area the economic effects could be considerable. For example, Consolidated Papers, Inc. provides a large volume of printing papers for the major magazines in the country. And the huge rate increases are expected to put a true pinch in the operation of these industry giants as well as the smaller publications.

The postal service should reconsider its proposal and trim the asked-for increases to a more realistic level. It should keep in mind the contribution of newspapers and magazines to the democratic process and the education of our citizens. Knowledge of government is vital to a living democracy and the information carried through publications is an indispensable part of that knowledge. Forcing publications out of business or causing cutbacks in quality because of exorbitant costs will severely damage this important function in our society.

[From the Delevan (Wis.) Enterprise, July 6, 1927]

IN FREEDOM'S INTEREST

On the surface, it is obviously self serving for second class publications—primarily newspapers and magazines—to protest the large (127% at least) postal rate increases that are proposed and already partially instituted by the United States Postal Service.

Most weekly newspapers (the Enterprise included), a substantial portion of the circulation of daily newspapers and probably a major portion of magazine circulation is handled by the U.S. mail service, under second class mailing permits. From a purely business point of view—profit, if you will—these publications would be expected to protest in their own self interest.

Yet, if these same publications do not protest, as this newspaper is now doing and will continue to do, they would not only be failing to respond to a business motive but also failing to serve their prime reason for being, which is the dissemination of the news, information and opinion that is absolutely vital to the existence of a democratic form of government.

That's why the Enterprise believes strongly that Wisconsin's Sen. Gaylord Nelson has performed an important service by introducing legislation to limit the increases for

smaller publications. Nelson's bill would prohibit the Postal Service from imposing per piece surcharges on second class matter and provides that the first 250,000 copies of each issue of a publication mailed under second class rates be charged the rate that existed on June 1 of this year. Any revenue thus lost to the Postal Service by that rate would be assumed by Congressional appropriations.

Another section of the Nelson bill provides that any rate increases for the editorial content of second class publications be phased on equal stages over a 10-year period.

In a statement to the senate on June 28 Sen. Nelson quoted widely from such men as James Madison, Thomas Jefferson, John Calhoun and others in establishing his bill's main tenet, that the mass dissemination of information (news) and opinion (editorial) is basic to the survival of a free society. The quotations and the summary of the unbroken government policy that the flow of information must be aided, rather than impeded, are impressive. However, so is Nelson's own statement, to wit:

"The strangulation of news and opinion through a single minded concern for postal revenue is appalling. That such actions are occurring in the United States at a time of great national controversy over the ability of this society's institutions to respond to the great issues of war and peace, and to the daily affairs which intrude ever closer on our individual lives, is a national tragedy.

". . . what we would not allow to happen with a censor's stamp or scissors should not be permitted to occur because of a single-minded application of accounting efficiency."

There is no doubt that the imposition of the proposed second class rates would seriously affect the ability of many publications to survive. And that group does not merely include smaller newspapers such as this one, but such major publications as Time, Newsweek and others. The new rates will deal an especially severe blow to smaller circulation magazines of opinion, the kind of magazines whose survival is important to this country's future. It will also seriously affect such national newspapers as the Christian Science Monitor and the New York Times, among others.

Every newspaper, large or small, can probably point to times in its existence when the information it has disseminated on local issues has played a major role in the eventual outcome of those issues. In the case of this newspaper, there is no need to look in the long-ago files—the creation of a sanitary district and the current sanitary sewer project at Delavan Lake are examples.

Postal costs for distribution of the Enterprise have doubled, tripled and quadrupled in the past 15 years. Part of this is due to increased circulation and the increased size of the paper. But much of it is due to higher postal rates. The proposed new increases will be severely felt by this newspaper.

One hopes that the Congress will approve Sen. Nelson's bill, thus signifying its agreement with a former Postmaster-General, Charles E. Smith, whom Nelson quotes thusly:

"Our free institutions rest on popular intelligence, and it has from the beginning been our fixed and enlightened policy to foster and promote the general diffusion of public information. Congress has wisely framed the postal laws with this just and liberal conception. It has uniformly sought to encourage inter-communication and the exchange of intelligence."

It should continue to do so.

[From the Clintonville (Wis.) Tribune-Gazette, July 6, 1972]

SUFFER THE LITTLE VOICE

There's always a terrible tendency to be self-serving in almost any role and such an action ordinarily alienates most others, but occasionally one finds himself in the center of a problem and there is no way out except to mention it.

For something like 178 years the United States has demonstrated a national concern for its press, particularly its least august members. By offering the use of the postal service at special rates, it has helped keep many of the nation's opinion and information purveyors alive and economic pressures that would have silenced them were distribution costs not borne in part by the government.

This is not news to our readers who may well think such a subsidy is an unfair privilege extended to a few people at the expense of the many. If special postal rates were used only to assist a few people earn a livelihood publishing newspapers of limited distribution, we'd have to feel it was a misuse of tax funds.

The distinction between keeping a community voice alive and supporting those who actually publish a newspaper is a clear one, however. The newspaper is far more important than the people who put it out, regardless of circulation or policies in any particular period.

Clintonville, for example, has had a newspaper of its own since 1881 under the widely differing management and political philosophies of Frank Brady, Barnum and Cotton, the Moldenhauers, Carl Frederichs, Risvold and Turner and the current stewards. Who owned it in any of those eras matters very little. What matters is the public service the newspaper provided. It is this service that the Congress has seen fit to preserve by preferential postal treatment.

Last year there was a major change in the schedule of postal charges, inaugurated early this year and projected for the future. It amounts to an increase of something like 143 per cent, not an inconsiderable amount by any standards. It is enough to make some small newspapers suspend publication.

It could be argued that a newspaper which can't stand the expense of distribution isn't worth saving. Newspapers are more important than that, though. Ask the residents of Bowler or some other communities which found they simply could not support a community voice alone, even with preferential postal rates.

This is the point at which we might, but don't want to, sound self-serving. There isn't a margin of profit in newspapers at the lower levels sufficient to absorb great cost increases. There is a definite limit on the amount that can be charged for subscriptions and there is certainly a point at which newspaper advertising rates cease to be competitive with other forms of advertising.

It happens that we aren't pleading the case for Clintonville, just yet. The Tribune-Gazette will survive the current postal increases. We do feel, nevertheless, that the nation is going to lose something very valuable if it prices community newspapers out of the post office.

The point of all this is to say we may have found a new friend in an old acquaintance. Wisconsin's Sen. Gaylord Nelson has taken up the cause which many in Washington have ignored in recent years.

Last Wednesday's Congressional Record contains a speech by the senator, a bill to reverse the trend toward prohibitive postal rates and about 12 pages of communications from periodicals all across the country evidencing real concern for the future of the press.

We'd like to quote one paragraph from the senator's lengthly speech which pretty much sums up the contribution of that segment of the press most dependent upon low-cost distribution:

"The publications which will be affected by this bill are those which have primarily sought to serve the public interest and operate at little or no profit. They have generated tremendous benefits for the American public, however, as they have been instrumental in bringing the first writings of scholars and the ideas of individuals from every walk of life in every field of endeavor before the public. In continuing support for these journals of news and opinion through low second-class postal rates, the Congress will not be writing off private mis-management—it will be making an investment in public education and self-government."

[From the Fond du Lac (Wis.), Commonwealth Reporter, July 7, 1972]

INCREASES IN POSTAL RATES ECONOMIC THREAT TO NEWSPAPERS

Wisconsin Sen. Gaylord Nelson, preoccupied with Earth Days and other matters ecological in recent years, has said:

"What we would not allow to happen with a censor's stamp or scissors should not be permitted to occur because of a singleminded application of accounting efficiency."

What Sen. Nelson was talking about was the possibility that postal rate increases might drive some newspapers out of business and keep new ones from being started. He was pleading for a limit on increases in rates for smaller publications so that they might survive.

Sen. Nelson feels so strongly about the possibility of losing any type of publication, whether it supports him or not or whether it supports the Nixon Administration or not, that he has introduced legislation into the Senate to put a ceiling on second-class rates imposed by the U.S. Postal Service.

We support this legislation because we firmly believe that only through a free press, through media opinion and representation of all kinds, through the ability to publish and distribute and through the educational functions of the media can democracy continue.

Sen. Nelson warned the Congress: "The proposed increases in second-class mail rates threaten to stifle the free flow of ideas and information and effectively silence some of the most important sources of competing, independent journalism and opinions in this country."

It seems the senator is overly worried about the threatened loss of what he called "dissenting viewpoints." Actually, he and we should be equally concerned about the media of any viewpoint, supporting or dissenting. Both stand to lose with increased postal rates which make publication prohibitive.

The Wisconsin senator described the postal rate recommendations as a reversal of a policy position of the Congress which dates to 1792.

For 178 years, he told the Senate in a speech introducing the bill, low postal rates had been set by Congress for distribution of printed publications through the mails as a form of national subsidy justified by the educational function and contribution to the self-governing aspect of citizenship.

He said the recommended increases would be particularly damaging to the smaller and economically marginal publications that often perform "the crucial role of providing public access to new and untested ideas, to minority thoughts which might otherwise remain hidden and to the whole range of human experience and expression."

Sen. Nelson said his bill makes it the obligation of the Postal Service to provide services at rates which encourage and support the widest possible dissemination of news, opinion, scientific, cultural and educational matter.

Any revenue lost to the Postal Service will be assumed by Congressional appropriations, Sen. Nelson said.

[From the Antigo (Wis.) Daily Journal, July 11, 1972]

IMPACT CRITICAL

The newspaper and magazine reader, no less than the publications, will feel the impact of the second class mailing rates, nearly doubled in one step. This is just one of many over a five or six year period which will see some second class rates increased as much as five and a half times.

The postal services, up to now, has not established a firm case to justify the rate increases, and that at a time when most of the businesses affected are under federal wage-price guidelines.

For many newspapers this will mean phasing out more and more mail customers and changing to "tube routes," in which a truck or car driver deposits the newspaper in tubes mounted on metal poles along the highway. While this is expensive, the customer receives the paper the same day and a higher subscription can be charged than for "second day" delivery by mail.

Senator Nelson has taken up the cause of the newspaper. A recent issue of the Congressional Record contained a speech by the senator, together with a bill to reverse the trend toward prohibitive postal rates and communications from periodicals all across the country evidencing real concern for the future of the press. The senator said:

"The publications which will be affected by this bill are those which have primarily sought to serve the public interest and operate at little or no profit. They have generated tremendous benefits for the American public, however, as they have been instrumental in bringing the first writings of scholars and the ideas of individuals from every walk of life in every field of endeavor before the public. In continuing support for these journals of news and opinion through low second-class postal rates, the Congress will not be writing off private mismanagement—it will be making an investment in public education and self-government."

Small town weeklies which have mostly mail distribution, will suffer, many to the point of extinction, from the high mail rates because they have mostly mail distribution. As the Clintonville Tribune-Gazette has pointed out editorially:

"There isn't a margin of profit in newspapers at the lower levels sufficient to absorb great cost increases. There is a definite limit on the amount which can be charged for subscriptions and there is certainly a point at which newspaper advertising rates cease to be competitive with other forms of advertising."

Many magazine publishers have predicted the end of the magazine era if the proposed increases are instituted in the coming five years. Some magazines, such as Life, have dropped thousands of subscribers from their rolls just to save shipping costs.

[From the Janesville (Wis.) Gazette, July 26, 1972]

PERIODICALS IN DANGER

Postal rate increases imposed on newspapers, magazines and periodicals are becoming a major issue in Washington. Debate in Congress is being spearheaded by Sen. Gaylord Nelson who proposes that the Congress, which thought it had excluded itself from rate increase and general management problems of the Post Office Department, get back into the action by rolling back the 127 per cent increase scheduled for the "second class" postage classifications.

At stake is the survival of certain periodicals, particularly those journals of opinion, poetry, fiction, technical and critical nature, which depend upon readers' subscription prices for support. It is doubtful that their customers will be willing to pay the large increase demanded by the Post Office.

The issue seems to be whether the postal service should be strictly a business enterprise, or operated as a service to the people. Postal management insists that the 1970 Postal Reform Act specified that mail delivery in the United States should pay its own way by 1980.

However, others note that the law also stated, "The postal service shall have as its basic function the obligation to provide postal service to bind the nation together through the personal, educational, literary and business correspondence of the people."

Senator Nelson refers to the heavy rate increases as having the potential of "strangulation" of news and opinion. He says that the government has created a postal monopoly which "vastly increases the opportunity for abuse and disregard for the welfare of all the people."

Public opinion and the force of government acting "in the public good" will certainly demand some relief for the important journals of opinion. No private business could get away with an increase of 127 per cent, even though spread out over five years.

Almost any newspaper, magazine or periodical, however, will be able to adjust to postage increases that are "reasonable and just." And every publisher, whatever his field, endorses the idea of increased revenue for the Post Office Department provided that the increases are matched by distribution efficiencies.

[From the Journal Times, Racine, Wis., Dec. 12, 1972]

DEATH OF LIFE MAGAZINE

There have been repeated warnings that a staggering 170 per cent increase in postal rates over the next five years would kill off many of the nation's periodicals.

One of the first major victims was Look magazine which went down the road to oblivion 15 months ago. Now Life magazine is folding, ending a 36-year career.

Life will publish its last issue in December, ironically on the joys of Christmas.

The economic forces which killed Life include competition from television and the rapidly rising costs of production and distribution of the magazine.

The *coup de grace*, however, was delivered by the Postal Service with its disproportionate increases in mail rates.

If the boost in second-class mail rates is sounding the death knell for the great news weeklies, it all but dooms the small periodicals which are an important avenue of communication.

These intellectual gadflies are the primary, often the only means of publishing a vast quantity of writing by scholars, scientists, historians, economists, engineers and agronomists.

Some of the best contemporary literature—poetry, fiction, criticism and scholarly work—is published in the periodicals that will fall victim to the mail rate increases.

In an effort to make the United States mails a self-sustaining business, the Postal Service may succeed only in cutting off freedom of expression and communication in America.

Many will mourn the death of Life magazine. It pioneered in the field or photo journalism, opening up new horizons in the coverage of art, religion, science and current history.

There will be more casualties unless Congress intervenes. Wisconsin Sen. Gaylord Nelson proposed a bill in the last session which would have put limits on the mail rate increases, but it failed to pass.

The bill expressly stated, "That it shall be the obligation of the Postal Service to provide service at rates which encourage the widest possible dissemination of news, opinion, scientific, cultural and education matter."

Nelson and other lawmakers should reintroduce legislation that will prevent the certain destruction of many periodicals and other publications. If necessary, Congress should provide the Postal Service with funds so that rates won't be subject to such high increases.

Unless the trend is reversed, we will see a graveyard of magazines and periodicals and all of us will suffer an irreparable loss.

[From the New York Times, July 18, 1972]

PRICING OUT IDEAS

(By Tom Wicker)

WASHINGTON, July 17.—First it was the Nixon Administration, scaring ideas out of the market with the Vice President's attacks on the press, and with the court cases against publication of the Pentagon Papers.

Then it was the Supreme Court, ruling ideas out of the market by its holdings that reporters have no constitutional right to protect the confidentiality of their sources, and that members of Congress have no protected right to inform their constituencies, if in so doing they violate security classification procedures.

And on June 29, it was one of those faceless administrative agencies over which the American people have so little control—in this case, the Board of Governors of the U.S. Postal Service—pricing ideas out of the market by ordering into effect on July 6 second-class postal rate increases that average 127 per cent. The word to note here is *average;* in some of the most sensitive cases, the rate increases will be much higher.

The first increase in the new second-class rate structure will average over 30 per cent; the full increase will go into effect within five years. Its impact on the flow of ideas and opinion in America is likely to be catastrophic, for it is precisely upon smaller, usually less profitable publications that it will impose the heaviest burden. In such journals, the liveliest and most controversial intellectual traffic is usually to be found.

The television networks can hardly provide such material; they are under the shadow of Government regulation and intervention (as witness President Nixon's recent veto of funds for public television) and the necessity for widespread popular acceptance (even the entertaining Dick Cavett, it appears, is too intellectual for commercial TV). The big-circulation newspapers and magazines, in most cases, also cater to the conventional wisdom or, in deference to their supposed impact on public opinion, conduct themselves with a certain prudence (Mr. Agnew to the contrary notwithstanding).

That leaves it up to the "little magazines," the trade journals (Stone's Weekly was probably indispensable to a national peace movement in the 1960's), even the so-called "underground press," to propagate unpopular ideas, circulate contrary opinions, prod their larger colleagues, and act as intellectual and political gadflies in a nation all too prone to conformity and complacency.

This is not a question of party or ideology. Right-wing publications will suffer from these rate increases as quickly as those of the left; Human Events is as much affected as The Texas Observer. Aside, moreover, from political, economic and social commentary as Herman Wouk put it to Congress on behalf of writers and artists: "Much of the best contemporary literature—poetry, fiction, criticism and scholarly work—is published in the very magazines that will be the earliest victims of the scheduled second-class rate increases.

Some would make the case that manageable second-class rates are, in effect, Government subsidies to publishers. This is to turn the matter around, because it is clear that to increase the postal costs of a marginal publication from, say, $100,000 annually to $227,000 annually, is to strike it a death blow.

Besides, it has been Congressional policy since 1792 to provide certain preferential

postal rates, not to enrich publishers but because as Mr. Justice Douglas once put it, it was considered heretofore that "periodicals which disseminated 'information of a public character' or which were devoted to 'literature, the sciences, arts, or some special industry' . . . contributed to the public good." That is not quite the same thing as subsidizing corporate farmers like Senator James O. Eastland or subsidizing oilmen with the depletion allowance; and the Senate Post Office and Civil Service Committee, reporting on the legislation establishing the Postal Service in 1970, made it quite clear that "the Postal Service is in fact and shall be operated as a service to the American people, not as a business enterprise."

Clearly, therefore, Congress ought to roll back the disastrous second-class increases that have been administratively imposed on a vital segment of the American press, and which may quite possibly destroy or cripple it. That can be done at this session, through legislation sponsored by Senator Nelson of Wisconsin, which would freeze the rate increases at the first-step level already in effect, phase future increases over a ten instead of a five-year period, and prevent the kind of surcharges particularly damaging to the smallest-circulation, lightest-weight publications.

This legislation would have no effect on third- and fourth-class rate increases. Its whole effect would be to stop the Postal Service from pricing ideas out of the market, at a time when the First Amendment is beginning to look like a Swiss cheese.

[From the Washington Evening Star and Daily News, Dec. 6, 1972]

POSTAL RATES AND PERIODICALS

(By David Lawrence)

Whenever any large private enterprise raises its prices to the public, there is a howl for the government to step in. But, oddly enough, when big government itself permits an unprecedented cost increase to be imposed on the publishing industry, causing the demise of some magazines and threatening the existence of others, nothing is done.

Despite protests by the publishers of periodicals who have expressed willingness to pay higher second-class postal rates if these were spread over 10 years instead of a 5-year period, the government takes no action.

The net result is that lots of companies are facing huge expenses with little time to prepare for them, and the government is failing to assist the publications in their transition difficulties.

The first announcement by the Postal Service called for an increase of 142 percent in the rates for second-class mail. This was subsequently changed to 129 percent, but the reduction is relatively ineffective in solving the problems of the publishing companies.

For decades past, the government made special provision for the mails to be used to help disseminate information to the public. But now this is going to be one of the costliest means of communication. Any publisher will have to feel assured of either a substantial increase in subscription prices or a big volume of advertising to take care of the expenses involved in delivering magazines to their destination.

Various magazines, of course, have been trying to overcome the dilemma by arranging with private companies to carry their issues to distant zones in order that the mail rates applicable would not be so high. But the Postal Service promptly changed the effect of this by declaring that postage would have to be paid on each individual piece of mail in addition to the customary weight charges.

Two years ago one company which had been steadily developing a successful publication was able to make a profit of a million dollars. But the next year, 1971, the higher postal rates came along and cut deeply into profits. If in that year the full amount of the postal increase had been in effect, it would have completely wiped out the profit and put the company in the red.

The data in other cases in which magazines could not recover from the losses have been given to members of Congress by committees formed by the magazine publishers, and efforts have been made to get bills passed by Congress to spread the added postal costs over a 10-year period so that they can be more readily absorbed. But no action was taken in the last session of Congress, and there is no indication that the administration will do anything about it during the next.

The government, of course, established the postal corporation, which is supposed to be a semiprivate body. It has, however, no right to impose rates that are so high as to impair the operations of businesses. But with the exception of a few senators and representatives who have written letters of protest on the subject, there has been little evidence of concern over the attitude taken by the postal service.

Yet it is known that some of the magazines which have ceased publication in the last two years have been affected by the postal-rate problem. Others have been encountering trouble because of the heavy costs under the new plan of high rates.

Over the years Congress has held the view that the press—including, of course, magazines—should have the benefit of low mail rates because this is one way of stimulating the establishment of publications of all kinds which could be of educational importance. In the last year and a half, however, the government's interest in the future of magazines has waned, and all magazines now are faced with serious problems which may eliminate more of them within the next decade. For they cannot raise subscription prices enough to cover the postal charges. People aren't accustomed to paying $25 or $30 a year for a magazine, and it will take a number of years to get them used to such prices. Meanwhile, some publications will not be able to survive because they will not have money enough to pay the higher second-class postal rates.

Fortunately, there are publications that have a cushion of assets which will enable them to go through the crisis. But even if one's own enterprise is not threatened, the fate of others is still a matter of great concern to anyone who has grown up with the idea that the U.S. government has a stake in seeing printed newspapers and magazines distributed widely to help tell the people what's going on. Entertainment is important, but the facts about the happenings in government and in the life of the nation are essential if public opinion is to become important.

[From the Washington Evening Star and Daily News, Dec. 11, 1972]

POSTAL RISE CULPRIT IN "LIFE" DEATH

(By David Lawrence)

A concrete example of how the high rates for second-class postage have upset the publishing industry is furnished by the announcement just made by Time, Inc., that it will suspend the publication of Life magazine at the end of this month.

This is the second of the larger national magazines to be crushed by the second-class postal rates. In a statement on the latest suspension, executives of the magazine pointed out that it had reduced its production from 8.5 to 5.5 million copies and increased the per copy price, but said that the impact of these moves was undercut by "a very heavy increase in second-class postal rates."

When the postal rate increase was first proposed, publishers realized that an added $130 million would have to be found annually to pay for mail service by the year 1976. Life magazine, in an editorial, declared that this amount was more than twice the profits earned by all magazines in 1970. The editorial added:

"Our four magazines (published by Time, Inc.) earned $11 million before taxes last year (1970); over the next five years the bill for mailing these magazines to subscribers would rise by about $27 million.

"Such drastic increases might be tolerable if the publishing industry could pass them on to customers by raising subscription and advertising rates.

"The industry has been raising both in recent years, but as the shrinking profit figures show, the high rates haven't been sufficient to offset higher costs. The experience of recent years also shows that steep increases in subscription rates tend to lead to lower circulation.

"Thus, if the entire postal rate increase were passed on to subscribers, a chain reaction might get under way in which falling circulation would lead to lower quality, thence to a further drop in circulation, and so on. . . .

"The postal service obviously needs more revenue. But it should not impose an increase that could literally drive hundreds of marginal magazines and newspapers out of business and lower the quality of those that survive.

"On the available data, it appears to us that a far more modest rate increase of about 60 percent over five years—still very stiff by any normal yardstick—would cover all costs directly related to the carrying of second-class mail and in addition would provide a modest contribution to the postal system's overhead."

The editorial went on to say the Congress, by turning over the postal service to an independent rate commission, had given it the "power of life and death" over a segment of the press.

There's no question that publishers believe an increase in rates could be imposed without putting either magazines or newspapers out of business, and the general feeling is that, by distributing the rise over ten years, the objective can be attained. Strangely enough, however, although this argument has been laid before Congress and the Postal Service, nothing has been done about it. Not only has Look magazine gone, but now Life, which has been a leading publication in the photojournalism field in the United States, has announced its demise.

Time, Inc., happens to be a company able to retain on its payrolls many of the employees working on Life magazine and to assist others with severance pay and help in getting employment elsewhere. But the death of the big magazine, which had a huge circulation and has been popular, shows that the government has ignored the pleas for lower postal rate increases during a 10-year transition period so magazines could handle the new levies without in any way reducing long-range benefits to the government.

Nothing of importance has been done in the last year and a half despite the pressures applied and the moves by some members of Congress to get a new formula adopted. If Congress would assure an appropriation for a 10-year period to take care of a lower second-class postal rate than now proposed, the publishing world would be greatly relieved.

This is something that does not merely relate to profitable operations. It has a good deal to do with making it possible for publishing companies to continue to exist and to carry on their enterprises. For it is evident that it is not practical to raise subscription prices suddenly and that it is essential that the period of transition be adapted to the conditions which prevail in the publishing industry.

By Mr. CHURCH (for himself and Mr. MAGNUSON):

S. 631. A bill to amend the Social Security Act to provide for the coverage of certain drugs under part A of the health insurance program established by title XVIII of such act. Referred to the Committee on Finance.

COVERAGE OF OUT-OF-HOSPITAL PRESCRIPTION DRUGS UNDER MEDICARE

Mr. CHURCH. Mr. President, on behalf of the Senator from Washington (Mr. MAGNUSON) and myself, I introduce for appropriate reference a bill to extend medicare coverage to include out-of-hospital prescription drugs which are necessary for the treatment of crippling or life-threatening conditions.

Medicare now covers the cost of prescriptions for patients in a hospital or extended care facility. But, it does not provide protection for older or disabled Americans who require drugs on an outpatient basis.

This lack of coverage represents one of the most serious gaps in the entire medicare program.

Prescriptions now constitute the largest single health care expense which the aged must meet almost entirely from their own resources. The 1971 Social Security Advisory Council pointed out, for example, that about 20 percent of all private health care expenditures for the aged are for drugs.

Annual per capita expenses for prescriptions are more than three times as great for older Americans as for persons under 65.

Perhaps even more significant, this expense falls most heavily upon those who can least afford it—the low-income aged who suffer from chronic conditions. Approximately 15 percent of all older Americans are afflicted with severe chronic conditions. And drug costs for this group are nearly six times as great as for younger Americans.

Today, the greatest threat to the economic security of many older Americans is the high cost of illness. Despite its valuable protection, medicare covers only about 42 percent of the health care expenses of the elderly. However, coverage of out-of-hospital prescriptions for crippling or life threatening conditions would be a crucial step in closing a major gap in medicare coverage.

This protection is, in my judgment, not only indispensable for the elderly, but it is also long overdue.

The need for this coverage has been reaffirmed time and time again by numerous leading authorities—including the President's own Task Force on Aging, the 1971 Social Security Advisory Council, an HEW Task Force on Prescription Drugs, a Review Committee on Prescription Drugs, and national senior citizen organizations.

Today, some hospital stays are prolonged simply to enable medicare patients to obtain reimbursement for their prescriptions. This practice is not only wasteful, but it also drives up medical costs because institutionalization is the most expensive form of health care. However, if our Nation could shave one hospital day off the medicare national average, this savings could amount to nearly $400 million.

For these reasons, I again emphatically urge the adoption of this legislation.

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

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

S. 631

A bill to amend the Social Security Act to provide for the coverage of certain drugs under part A of the health insurance program established by title XVIII of such Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 226(c)(1) of the Social Security Act is amended by striking out "and post-hospital home health services" and inserting in lieu thereof "post-hospital home health services, and eligible drugs".

(b) Section 1811 of the Social Security Act is amended by inserting "and eligible drugs" after "related post-hospital services".

(c) Section 1812(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) eligible drugs.".

(d) Section 1813(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4) The reasonable allowance, as defined in section 1813, for eligible drugs furnished an individual pursuant to any one prescription (or each renewal thereof) and purchased by such individual at any one time shall be reduced by an amount equal to the applicable prescription copayment obligation which shall be $1."

(e)(1) Section 1814(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (6);

(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) with respect to drugs or biologicals furnished pursuant to and requiring (except for insulin) a physician's prescription, such drugs or biologicals are eligible drugs as defined in section 1861(t) and the participating pharmacy (as defined in section 1861(dd)) has such prescription in its possession, or some other record (in the case of insulin) that is satisfactory to the Secretary."

(2) Section 1814(b) of such Act is amended—

(A) by inserting "(1)" after "(b)",

(B) by inserting "(other than a pharmacy)" immediately after "provider of services",

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(D) by redesignating clauses (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively, and

(E) by adding at the end thereof the following new paragraph:

"(2) The amount paid to any participating pharmacy which is a provider of services with respect to eligible drugs for which payment may be made under this part shall, subject to the provisions of section 1813, be the reasonable allowance (as defined in section 1822) with respect to such drugs."

(f) Section 1814 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Limitation on Payment for Eligible Drugs

"(j) Payments may be made under this part for eligible drugs only when such drugs are dispensed by a participating pharmacy; except that payment under this part may be made for eligible drugs dispensed by a physician where the Secretary determines, in accordance with regulations, that such eligible drugs were required in an emergency or that there was no participating pharmacy available in the community, in which case the physician (under regulations prescribed by the Secretary) shall be regarded as a participating pharmacy for purposes of this part with respect to the dispensing of such eligible drugs."

(g) Part A of title XVIII of the Social Security Act is further amended by adding after section 1818 the following new sections:

"MEDICARE FORMULARY COMMITTEE

"SEC. 1819. (a)(1) There is hereby established, within the Department of Health, Education, and Welfare, a Medicare Formulary Committee (hereinafter referred to as the 'Committee'), a majority of whose members shall be physicians and which shall consist of the Commissioner of Food and Drugs and of four individuals (not otherwise in the employ of the Federal Government) who do not have a direct or indirect financial interest in the composition of the Formulary established under this section and who are of recognized professional standing and distinction in the fields of medicine, pharmacology, or pharmacy, to be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Chairman of the Committee shall be elected annually from the appointed members thereof, by majority vote of the members of the Committee.

"(2) Each appointed member of the Committee shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, one at the end of each of the first five years. A member shall not be eligible to serve continuously for more than two terms.

"(b) Appointed members of the Committee, while attending meetings or conferences thereof or otherwise serving on business of the Committee, shall be entitled to receive compensation at rates fixed by the Secretary (but not in excess of the daily rate paid under GS–18 of the General Schedule under section 5332 of title 5, United States Code), including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c)(1) The Committee is authorized, with the approval of the Secretary, to engage or contract for such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Committee such secretarial, clerical, and other assistance as the Formulary Committee may require to carry out its functions.

"(2) The Secretary shall furnish to the Committee such office space, materials, and equipment as may be necessary for the Formulary Committee to carry out its functions.

"MEDICARE FORMULARY

"SEC. 1820. (a)(1) The Committee shall compile, publish, and make available a Medicare Formulatory (hereinafter in this title referred to as the 'Formulary').

"(2) The Committee shall periodically revise the Formulary and the listing of drugs so as to maintain currency in the contents thereof.

"(b)(1) The Formulary shall contain an alphabetically arranged listing, by established name, of those drug entities within the following therapeutic categories:

"Adrenocorticoids
"Anti-anginals
"Anti-arrhythmics
"Anti-coagulants
"Anti-convulsants (excluding phenobarbital)
"Anti-hypertensives
"Anti-neoplastics
"Anti-Parkinsonism agents
"Anti-rheumatics
"Bronchodilators
"Cardiotonics
"Cholinesterase inhibitors
"Diuretics
"Gout suppressants
"Hypoglycemics
"Miotics
"Thyroid hormones
"Tuberculostatics

which the Committee decides are necessary for individuals using such drugs. The Committee shall exclude from the Formulary any drug entities (or dosage forms and strengths thereof) which the Committee decides are not necessary for proper patient care, taking into account other drug entities (or dosage forms and strengths thereof) which are included in the Formulary.

"(2) Such listing shall include the specific dosage forms and strengths of each drug entity (included in the Formulary in accordance with paragraph (1)) which the Committee decides are necessary for individuals using such drugs.

"(3) Such listing shall include the prices at which the products (in the same dosage form and strength) of such drug entities are generally sold by the suppliers thereof and the limit applicable to such prices under section 1822(b)(1) for purposes of determining the reasonable allowance.

"(4) The Committee may also include in the Formulary, either as a separate part (or parts) thereof or as a supplement (or supplements) thereto, any or all of the following information:

"(A) A supplemental list or lists, arranged by diagnostic, prophylactic, therapeutic, or other classifications, of the drug entities (and dosage forms and strengths thereof) included in the listing referred to in paragraph (1).

"(B) The proprietary names under which products of a drug entity listed in the Formulary by established names (and dosage form and strength) are sold and the names of each supplier thereof.

"(C) Any other information with respect to eligible drug entities which in the judgment of the Committee would be useful in carrying out the purposes of this part.

"(c) In considering whether a particular drug entity (or strength or dosage form thereof) shall be included in or excluded from the Formulary, the Committee is authorized to obtain (upon request therefor) any record pertaining to the characteristics of such drug entity which is available to any other department, agency, or instrumentality of the Federal Government, and to request suppliers or manufacturers of drugs and other knowledgeable persons or organizations to make available to the Committee information relating to such drug. If any such record or information (or any information contained in such record) is of a confidential nature, the Committee shall respect the confidentiality of such record or information and shall limit its usage thereof to the proper exercise of its authority.

"(d)(1) The Committee shall establish such procedures as it determines to be necessary in its evaluation of the appropriateness of the inclusion in or exclusion from the Formulary, of any drug entity (or dosage form or strength thereof). For purposes of inclusion in or exclusion from the Formulary the principal factors in the determination of the Committee shall be:

"(A) the factor of clinical equivalence in the case of the same dosage forms in the same strength of the same drug entity, and

"(B) the factor of relative therapeutic value in the case of similar or dissimilar drug entities in the same therapeutic category.

"(2) The Committee, prior to making a final decision to remove from listing in the Formulary any drug entity (or dosage forms or strengths thereof) which is included therein, shall afford a reasonable opportunity for a formal or informal hearing on the matter to any person engaged in manufacturing, preparing, compounding, or processing such drug entity who shows reasonable ground for such a hearing.

"(3) Any person engaged in the manufacture, preparation, compounding, or processing of any drug entity (or dosage forms or strengths thereof) not included in the Formulary which such person believes to possess the requisite qualities to entitle such drug to be included in the Formulary pursuant to subsection (b), may petition for inclusion of such drug entity and, if such petition is denied by the Formulary Committee, shall, upon request therefor, showing reasonable grounds for a hearing, be afforded a formal or informal hearing on the matter in accordance with rules and procedures established by such Committee.

"LIMITATIONS ON MEDICARE PAYMENT FOR CHARGES OF PROVIDERS OF SERVICES

"SEC. 1821. (a) Any provider of services as defined in section 1861(u), whose services are otherwise reimbursable, under any program under this Act in which there is Federal financial participation on the basis of 'reasonable cost', shall not be entitled to a professional fee or dispensing charge or reasonable billing allowance as determined pursuant to this part.

"(b) A fee, charge, or billing allowance shall not be payable under this section with respect to any drug entity that (as determined in accordance with regulations) is furnished as an incident to a physician's professional service, and is of a kind commonly furnished in physicians' offices and commonly either rendered without charge or included in the physicians' bills.

"REASONABLE ALLOWANCE FOR ELIGIBLE DRUGS

"SEC. 1822. (a) For purposes of this part, the term 'reasonable allowance' when used in reference to an eligible drug (as defined in subsection (h) of this section) means the following:

"(1) When used with respect to a prescription legend drug entity, in a given dosage form and strength, such term means the lesser of—

"(A) an amount equal to the customary charge at which the participating pharmacy sells or offers such drug entity, in a given dosage form and strength, to the general public, or

"(B) the price determined by the Secretary, in accordance with subsection (b) of this section, plus the professional fee or dispensing charges determined in accordance with subsection (c) of this section.

"(2) When used with respect to insulin such term means the charge not in excess of the reasonable customary price at which the participating pharmacy offers or sells the product to the general public, plus a reasonable billing allowance.

"(b)(1) For purposes of establishing the reasonable allowance in accordance with subsection (a) the price shall be (A) in the case of a drug entity (in any given dosage form and strength) available from and sold by only one supplier, the price at which such drug entity is generally sold (to establishments dispensing drugs), and (B) in any case in which a drug entity (in any given dosage form and strength) is available and sold by more than one supplier, only each of the lower prices at which the products of such drug entity are generally sold (and such lower prices shall consist of only those prices of different suppliers sufficient to assure actual and adequate availability of the drug entity, in a given dosage form and strength, at such prices in a region).

"(2) If a particular drug entity (in a given dosage form and strength) in the Formulary is available from more than one supplier, and the product of such drug entity as available from one supplier possesses demonstrated distinct therapeutic advantages over other products of such drug entity as determined by the Committee on the basis of its scientific and professional appraisal of information available to it, including information and other evidence furnished to it by the supplier of such drug entity, then the reasonable allowance for such supplier's drug product shall be based upon the price at which it is generally sold to establishments dispensing drugs.

"(3) If the prescriber, in his handwritten order, has specifically designated a particular product of a drug entity (and dosage form and strength) included in the Formulary by its established name together with the name of the supplier of the final dosage form thereof, the reasonable allowance for such drug product shall be based upon the price at which it is generally sold to establishments dispensing drugs.

"(c)(1) For the purpose of establishing the reasonable allowance (in accordance with subsection (a)) a participating pharmacy, shall, in the form and manner prescribed by the Secretary, file with the Secretary, at such times as he shall specify, a statement of its professional fee or other dispensing charges.

"(2) A participating pharmacy, which has agreed with the Secretary to serve as a provider of services under this part, shall, except for subsection (a)(1)(A), be reimbursed, in addition to any price provided for in subsection (b), the amount of the fee or charges filed in paragraph (1), except that no fee or charges shall exceed the highest fee or charges filed by 75 per centum of participating pharmacies (with such pharmacies classified on the basis of (A) lesser dollar volume of prescriptions and (B) all others) in a census region which were customarily charged to the general public as of June 1, 1973. Such prevailing professional fees or dispensing charges may be modified by the Secretary in accordance with criteria and types of data comparable to those applicable to recognition of increases in reasonable charges for services under section 1842.

"(3) A participating pharmacy shall agree to certify that, whenever such pharmacy is required to submit its usual professional fee or dispensing charge for a prescription, such charge does not exceed its customary charge."

(h) Section 1861 (t) of the Social Security Act is amended—

(1) by inserting ", or as are approved by the Formulary Committee" after "for use in such hospital"; and

(2) by adding at the end thereof the following new sentence: "The term 'eligible drug' means a drug or biological which (A) can be self-administered, (B) requires a physician's prescription (except for insulin), (C) is prescribed when the individual requiring such drug is not an inpatient in a hospital or extended care facility, during a period of covered care, (D) is included by strength and dosage forms among the drugs and biologicals approved by the Formulary Committee, (E) is dispensed (except as provided by section 1814 (j)), by a pharmacist from a participating pharmacy, and (F) is dispensed in quantities consistent with proper medical practice and reasonable professional discretion."

(i) Section 1861(u) of the Social Security Act is amended by striking out "home health agency," and inserting in lieu thereof "home health agency, pharmacy,".

(j) Section 1861 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

"Participating pharmacy

"(dd) The term 'participating pharmacy' means a pharmacy, or other establishment (including the outpatient department of a hospital) providing pharmaceutical services (1) which is licensed as such under the laws of the State (where such State requires such licensure) or which is otherwise lawfully providing pharmaceutical services in which such drug is provided or otherwise dispensed in accordance with this title, (2) which has agreed with the Secretary to act as a provider of services in accordance with the requirements of this section, and which complies with such other requirements as may be established by the Secretary in regulations to assure the proper, economical, and efficient administration of this title, (3) which has agreed to submit, at such frequency and in such form as may be prescribed in regulations, bills for amounts payable under this title for eligible drugs furnished under part A of this title, and (4) which has agreed not to charge beneficiaries under this title any amounts in excess of those allowable under this title with respect to eligible drugs except as is provided under section 1813(a)(4), and except for so much of the charge for a prescription (in the case of a drug product prescribed by a physician, of a drug entity in a strength and dosage form included in the Formulary where the price at which such product is sold by the supplier thereof exceeds the reasonable allowance) as is in excess of the reasonable allowance established for such drug entity in accordance with section 1822."

(k)(1) The first sentence of section 1866(a)(2)(A) of the Social Security Act is amended by striking out "and (ii)" and inserting in lieu thereof the following: "(ii) the amount of any copayment obligation and excess above the reasonable allowance consistent with section 1861(dd)(4) and (iii)".

(2) The second sentence of section 1866(a)(2)(A) of such Act is amended by striking out "clause (ii)" and inserting in lieu thereof "clause (iii)".

(l) The amendments made by this section shall apply with respect to eligible drugs furnished on and after the first day of January 1974.

Sec. 2. (a)(1)(A) Section 209(a)(8) of the Social Security Act is amended by striking out "$12,000" and inserting in lieu thereof "$12,300".

(B) Section 209(a) of such Act is further amended by inserting, immediately after paragraph (8) thereof, the following new paragraph:

"(9) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding provisions of this section) equal to $13,200 with respect to employment has been paid to an individual during any calendar year after 1974 and prior to 1976, is paid to such individual during such calendar year;".

(C) Paragraph (9) of section 209(a) of such Act is—

(i) redesignated as paragraph (10); and

(ii) amended by striking out "1974" and inserting in lieu thereof "1975".

(2)(A) Section 211(b)(1)(H) of such Act is amended by striking out "$12,000" and inserting in lieu thereof "$12,300".

(B) Paragraph (1) of section 211(b) of such Act is further amended by inserting, immediately after subparagraph (H) thereof, the following new subparagraph:

"(I) For any taxable year beginning after 1974 and prior to 1976, (i) $13,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and".

(C) Subparagraph I of paragraph (1) of section 211(b) of such Act—

(i) is redesignated as subparagraph (J); and

(ii) is amended by striking out "1974" and inserting in lieu thereof "1975".

(3)(A) Section 213(a)(2)(ii) of such Act is amended by striking out "or $12,000 in the case of a calendar year after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective" and inserting in lieu thereof "or $12,300 in the case of a calendar year after 1973 and before 1975, or $13,200 in the case of a calendar year after 1974 and before 1976, or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1975 with respect to which such contribution and benefit base is effective".

(B) Section 213(a)(2)(iii) of such Act is amended by striking out "or $12,000 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974" and inserting in lieu thereof "or $12,300 in the case of a taxable year beginning after 1974 and before 1976, or an amount equal to the contribution and benefit base (as determined under section 230 which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1975".

(4) Section 215(e)(1) of such Act is amended by striking out "the excess over $12,000 in the case of any calendar year after 1973 and before 1975, and the excess over an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective" and inserting in lieu thereof "the excess over $12,300 in the case of any calendar year after 1973 and before 1975, the excess over $13,200 in the case of any calendar year after 1974 and before 1976, and the excess over an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1975 with respect to which such contribution and benefit base is effective."

(b)(1)(A) Section 1402(b)(1)(H) of the Internal Revenue Code of 1954 (relating to definition of self-employment income) is amended (i) by striking out "$12,000" and inserting in lieu thereof "$12,300," and (ii) by striking out "and" at the end thereof.

(B) Section 1402(b)(1) of such Code is further amended by inserting, immediately after subparagraph (H) thereof, the following new subparagraph:

"(I) for any taxable year beginning after 1974 and before 1976, (i) $13,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and".

(C) Subparagraph (I) of section 1402(b)(1) of such Code—

(i) is redesignated as subparagraph (J); and

(ii) is amended by striking out "1974" and inserting in lieu thereof "1975."

(2)(A)(i) Effective with respect to remuneration paid after 1973 section 3121(a)(1) of the Internal Revenue Code of 1954 (relating to definition of wages) is amended by striking out "$10,800" each place it appears and inserting in lieu thereof "$12,300".

(ii) Section 203(b)(2)(B) of Public Law 92–336 is hereby repealed.

(B) Effective with respect to remuneration paid after 1974, section 3121(a)(1) of such Code is amended by striking out "$12,300" each place it appears and inserting in lieu thereof "$13,200".

(C)(i) Effective with respect to remuneration paid after 1975, section 3121(a)(1) of such Code is amended—

(I) by striking out "$13,200" each place it appears and inserting in lieu thereof "the contribution and benefit base (as determined under section 230 of the Social Security Act)", and

(II) by striking out "by an employer during any calendar year", and inserting in lieu thereof "by an employer during the calendar year with respect to which such contribution and benefit base is effective".

(ii) Section 203(b)(2)(C) of Public Law 92–336 is hereby repealed.

(3)(A)(i) Effective with respect to remuneration paid after 1973 the second sentence of section 3122 of the Internal Revenue Code of 1954 (relating to Federal service) is amended by striking out "$10,800" and inserting in lieu thereof "$12,300".

(ii) Section 203(b)(3)(B) of Public Law 92–336 is hereby repealed.

(B) Effective with respect to remuneration paid after 1974, the second sentence of section 3122 of such Code is amended by striking out "$12,300" and inserting in lieu thereof "$13,200".

(C)(i) Effective with respect to remuneration paid after 1975, the second sentence of section 3122 of such Code is amended by striking out "the $13,300 limitation" and inserting in lieu thereof "the contribution and benefit base limitation".

(ii) Section 203(b)(3)(C) of Public Law 92–336 is hereby repealed.

(4)(A)(i) Effective with respect to remuneration paid after 1973, section 3125 of the Internal Revenue Code of 1954 (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by striking out "$10,800" where it appears in subsections (a), (b), and (c), and inserting in lieu thereof "$12,300".

(ii) Section 203(b)(4)(B) of Public Law 92–336 is hereby repealed.

(B) Effective with respect to remuneration paid after 1974, section 3125 of such Code is amended by striking out "$12,300" where it appears in subsections (a), (b), and (c), and inserting in lieu thereof "$13,200".

(C)(i) Effective with respect to remuneration paid after 1975, section 3125 of such Code is amended by striking out "the $13,200 limitation", where it appears in subsections (a), (b), and (c), and inserting in lieu thereof "the contribution and benefit base limitation".

(ii) Section 203(b)(4)(C) of Public Law 92–336 is hereby repealed.

(5) Section 6413(c)(1) of such Code (relating to special refunds of employment taxes) is amended—

(A) by striking out "(G) during any calendar year after the calendar year 1973 and prior to the calendar year 1975, the wages received by him during such year exceed $12,000, or (H) during any calendar year after 1974, the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year," and inserting in lieu thereof "(G) during any calendar year after the calendar year 1973 and prior to the calendar year 1975, the wages received by him during such year exceed $12,300, or (H) during any calendar year after the calendar year 1974 and prior to the calendar year 1976, the wages received by him during such year exceed $13,200, or (I) during any calendar year after 1975, the wages received by him during such year exceed the contribu-

tion and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year,"; and

(B) by striking out 'or which exceeds the tax with respect to the first $12,000 of such wages received in such calendar year after 1973 and before 1975, or which exceeds the tax with respect to an amount of such wages received in such calendar year after 1974 equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year" and inserting in lieu thereof "or which exceeds the tax with respect to the first $12,300 of such wages received in such calendar year after 1973 and before 1975, or which exceeds the tax with respect to the first $12,200 of such wages received in such calendar year after 1974 and before 1976, or which exceeds the tax with respect to an amount of such wages received in such calendar year after 1975 equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year".

(6) Section 6413 (a) (2) (A) of such Code (relating to refunds of employment taxes in the case of Federal employees) is amended by striking out "$12,000 for the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1974 with respect to which such contribution and benefit base is effective" and inserting in lieu thereof "$12,300 for the calendar year 1974, $13,200 for the calendar year 1975, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1975 with respect to which such contribution and benefit base is effective".

(7) (A) (i) Effective with respect to taxable years beginning after 1973, section 6654 (d) (2) (B) (ii) of such Code (relating to failure by individual to pay estimated income tax) is amended by striking out "$10,800" and inserting in lieu thereof "$12,300".

(ii) Section 203 (b) (7) (B) of Public Law 92-336 is hereby repealed.

(B) Effective with respect to taxable years beginning after 1974, section 6654 (d) (2) (B) (ii) of such Code is amended by striking out "$12,300" and inserting in lieu thereof "$13,200".

(C) (i) Effective with respect to taxable years beginning after 1975, section 6654 (d) (2) (B) (ii) of such Code is amended by striking out "the excess of $13,200 over the amount" and inserting in lieu thereof "the excess of (I) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which the taxable year begins, over (II) the amount".

(ii) Section 203 (b) (7) (C) of Public Law 92-336 is hereby repealed.

SEC. 3. Section 230 (c) of the Social Security Act is amended—

(1) by striking out "year after 1973" and inserting in lieu thereof "year after 1975"; and

(2) by striking out "$12,000" and inserting in lieu thereof "$13,200".

SEC. 4. (a) Section 1401 (b) of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1974, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1973, the tax shall be equal to 1.05 percent of the amount of the self-employment income for such taxable year."

(b) Section 3101 (b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1973, the rate shall be 1.0 percent; and

"(3) with respect to wages received after December 31, 1973, the rate shall be 1.05 percent."

(c) Section 3111 (b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages paid during the calendar year 1973, the rate shall be 1.0 percent; and

"(3) with respect to wages paid after December 31, 1973, the rate shall be 1.05 percent."

(d) The amendment made by subsection (a) shall apply only with respect to taxable years beginning after December 31, 1973; the amendments made by subsections (b) and (c) shall apply only with respect to remuneration paid after December 31, 1973.

By Mr. CHURCH (for himself, Mr. MAGNUSON, Mr. MANSFIELD, and Mr. CRANSTON):

S. 632. A bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings, and for other purposes. Referred to the Committee on Finance.

INCREASE IN SOCIAL SECURITY RETIREMENT TEST TO $3,000

Mr. CHURCH. Mr. President, on behalf of the Senator from Montana (Mr. MANSFIELD) the Senator from Washington (Mr. MAGNUSON), and the Senator from California (Mr. CRANSTON), I introduce for appropriate reference a bill to raise the social security retirement test to $3,000.

In recent years our Nation has erected serious roadblocks to employment opportunities for older Americans. As a result, more and more are forced to drop out of the labor force. Today only about 15 percent of all persons age 65 or older are employed—quite frequently in part-time and lower-paying jobs.

But why should our Nation attempt to shut off activity for the elderly, especially when inactivity is one of their greatest enemies?

Why should our national policies penalize or discourage those who want to work or need to work?

Despite these recurring questions, the retirement test under social security continues to act as a deterrent to employment for many older Americans.

Last year, the Congress took a number of constructive steps to improve this provision.

First, the maximum annual earnings limitation for persons under age 72 was increased from $1,680 to $2,100 a year.

Second, for earnings in excess of this amount, $1 in social security benefits will be withheld for each $2 of earnings. Under prior law, this $1-for-$2 reduction applied only to wages between $1,680 and $2,880. Thereafter, social security payments were reduced for each dollar of wages.

Third, the amount of exempt earnings will be increased automatically in proportion to the rise in average wages, whenever social security benefits are raised automatically.

Fourth, earnings in and after the month in which a person attains age 72 will not be included, as under prior law, in determining total wages for the year.

The bill that I introduce today is designed to build upon these earlier positive reforms. Briefly stated, my proposal would raise the maximum exempt earnings limitation under social security from $2,100 to $3,000.

This measure, I strongly believe, would help to provide greater equity for those who must work to supplement their retirement income.

All too often, social security payments are insufficient to enable older Americans to live decently and comfortably.

Average benefits for retired workers now amount to about $1,932 a year—or about $37 a week.

Consequently, many older Americans need to work if they are to live independently. And they should be given every opportunity to help themselves.

The elderly are not asking for a handout. They simply want a chance to earn additional income to escape from the vice-like grip of poverty or to live in dignity and self-respect in retirement.

My proposal, I also want to emphasize, was enthusiastically endorsed by the income section at the 1971 White House Conference on Aging.

And I am hopeful that this measure will receive priority attention during this Congress.

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

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

S. 632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraphs (1), (3), and (4) (B) of section 203 (f), and paragraph (1) (A) of section 203 (h), of the Social Security Act are each amended by striking out "$175" and inserting in lieu thereof "$250".

(b) The amendment made by subsection (a) shall apply with respect to taxable years ending after December 1973.

SEC. 2. (a) (1) (A) Section 209 (a) (8) of the Social Security Act is amended by striking out "$12,000" and inserting in lieu thereof "$12,300".

(B) Section 209 (a) of such Act is further amended by inserting, immediately after paragraph (8) thereof, the following new paragraph:

"(9) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding provisions of this section) equal to $13,200 with respect to employment has been paid to an individual during any calendar year after 1974 and prior to 1976, is paid to such individual during such calendar year;".

(C) Paragraph (9) of section 209 (a) of such Act is—

(i) redesignated as paragraph (10); and

(ii) amended by striking out "1974" and inserting in lieu thereof "1975".

(2) (A) Section 211 (b) (1) (H) of such Act is amended by striking out "$12,000" and inserting in lieu thereof "$12,300".

(B) Paragraph (1) of section 211 (b) of such Act is further amended by inserting, immediately after subparagraph (H) thereof, the following new subparagraph:

"(I) For any taxable year beginning after 1974 and prior to 1976, (i) $13,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and".

(C) Subparagraph I of paragraph (1) of section 211(b) of such Act—

(i) is redesignated as subparagraph (J); and

(ii) is amended by striking out "1974" and inserting in lieu thereof "1975".

(3)(A) Section 213(a)(2)(ii) of such Act is amended by striking out "or $12,000 in the case of a calendar year after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective" and inserting in lieu thereof "or $12,300 in the case of a calendar year after 1973 and before 1975, or $13,200 in the case of a calendar year after 1974 and before 1976, or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1975 with respect to which such contribution and benefit base is effective".

(B) Section 213(a)(2)(iii) of such Act is amended by striking out "or $12,000 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974" and inserting in lieu thereof "or $12,300 in the case of a taxable year beginning after 1974 and before 1976, or an amount equal to the contribution and benefit base (as determined under section 230) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1975".

(4) Section 215(e)(1) of such Act is amended by striking out "the excess over $12,000 in the case of any calendar year after 1973 and before 1975, and the excess over an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective" and inserting in lieu thereof "the excess over $12,300 in the case of any calendar year after 1973 and before 1975, the excess over $13,200 in the case of any calendar year after 1974 and before 1976, and the excess over an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1975 with respect to which such contribution and benefit base is effective".

(b)(1)(A) Section 1402(b)(1)(H) of the Internal Revenue Code of 1954 (relating to definition of self-employment income) is amended (i) by striking out "$12,000" and inserting in lieu thereof "$12,300", and (ii) by striking out "and" at the end thereof.

(B) Section 1402(b)(1) of such Code is further amended by inserting, immediately after subparagraph (H) thereof, the following new subparagraph:

"(I) for any taxable year beginning after 1974 and before 1976, (i) $13,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and".

(C) Subparagraph (I) of section 1402 (b)(1) of such Code—

(i) is redesignated as subparagraph (J); and

(ii) is amended by striking out "1974" and inserting in lieu thereof "1975".

(2)(A)(i) Effective with respect to remuneration paid after 1973, section 3121 (a)(1) of the Internal Revenue Code of 1954 (relating to definition of wages) is amended by striking out "$10,800" each place it appears and inserting in lieu thereof "$12,300".

(ii) Section 203 (b)(2)(B) of Public Law 92-336 is hereby repealed.

(B) Effective with respect to remuneration paid after 1974, section 3121 (a)(1) of such Code is amended by striking out "$12,-300" each place it appears and inserting in lieu thereof "$13,200".

(C)(i) Effective with respect to remuneration paid after 1975, section 3121 (a)(1) of such Code is amended—

(I) by striking out "$13,200" each place it appears and inserting in lieu thereof "the contribution and benefit base (as determined under section 230 of the Social Security Act)", and

(II) by striking out "by an employer during any calendar year", and inserting in lieu thereof "by an employer during the calendar year with respect to which such contribution and benefit base is effective".

(ii) Section 203(b)(2)(C) of Public Law 92-336 is hereby repealed.

(3)(A)(i) Effective with respect to remuneration paid after 1973, the second sentence of section 3122 of the Internal Revenue Code of 1954 (relating to Federal service) is amended by striking out "$10,800" and inserting in lieu thereof "$12,300".

(ii) Section 203(b)(3)(B) of Public Law 92-336 is hereby repealed.

(B) Effective with respect to remuneration paid after 1974, the second sentence of section 3122 of such Code is amended by striking out "$12,300" and inserting in lieu thereof "$13,200".

(C)(i) Effective with respect to remuneration paid after 1975, the second sentence of section 3122 of such code is amended by striking out "the $13,300 limitation" and inserting in lieu thereof "the contribution and benefit base limitation".

(ii) Section 203(b)(3)(C) of Public Law 92-336 is hereby repealed.

(4)(A)(i) Effective with respect to remuneration paid after 1973, section 3125 of the Internal Revenue Code of 1954 (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by striking out "$10,800" where it appears in subsections (a), (b), and (c), and inserting in lieu thereof "$12,300".

(ii) Section 203(b)(4)(B) of Public Law 92-336 is hereby repealed.

(B) Effective with respect to remuneration paid after 1974, section 3125 of such Code is amended by striking out "$12,300" where it appears in subsections (a), (b), and (c), and inserting in lieu thereof "$13,2000".

(C)(i) Effective with respect to remuneration paid after 1975, section 3125 of such Code is amended by striking out "the $13,-200 limitation", where it appears in subsections (a), (b), and (c), and inserting in lieu thereof "the contribution and benefit base limitation".

(ii) Section 203(b)(4)(C) of Public Law 92-336 is hereby repealed.

(5) Section 6413(c)(1) of such code (relating to special refunds of employment taxes) is amended—

(A) by striking out "(G) during any calendar year after the calendar year 1973 and prior to the calendar year 1975, the wages received by him during such year exceed $12,000, or (H) during any calendar year after 1974, the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year," and inserting in lieu thereof "(G) during any calendar year after the calendar year 1973 and prior to the calendar year after 1975, the wages received by him during such year exceed $12,300, or (H) during any calendar year after the calendar year 1974 and prior to the calendar year 1976, the wages received by him during such year exceed $13,200, or (I) during any calendar year after 1975, the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, "; and

(B) by striking out "or which exceeds the tax with respect to the first $12,000 of such wages received in such calendar year after 1973 and before 1975, or which exceeds the tax with respect to an amount of such wages received in such calendar year after 1974 equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year" and inserting in lieu thereof "or which exceeds the tax with respect to the first $12,300 of such wages received in such calendar year after 1973 and before 1975, or which exceeds the tax with respect to the first $13,200 of such wages received in such calendar year after 1974 and before 1976, or which exceeds the tax with respect to an amount of such wages received in such calendar year after 1975 equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year".

(6) Section 6413(a)(2)(A) of such Code (relating to refunds of employment taxes in the case of Federal employees) is amended by striking out "$12,000 for the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1974 with respect to which such contribution and benefit base is effective" and inserting in lieu thereof $12,300 for the calendar year 1974, $13,200 for the calendar year 1975, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1975 with respect to which such contribution and benefit base is effective".

(7)(A)(i) Effective with respect to taxable years beginning after 1973, section 6654(d)(2)(B)(ii) of such Code (relating to failure by individual to pay estimated income tax) is amended by striking out "$10,800" and inserting in lieu thereof "$12,300".

(ii) Section 203(b)(7)(B) of Public Law 92-336 is hereby repealed.

(B) Effective with respect to taxable years beginning after 1974, section 6654(d)(2)(B)(ii) of such Code is amended by striking out "$12,300" and inserting in lieu thereof "$13,200".

(C)(i) Effective with respect to taxable years beginning after 1975, section 6654(d)(2)(B)(ii) of such Code is amended by striking out "the excess of $13,200 over the amount" and inserting in lieu thereof "the excess of (I) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which the taxable year begins, over (II) the amount".

(ii) Section 203(b)(7)(C) of Public Law 92-336 is hereby repealed.

SEC. 3. (a) Section 230(c) of the Social Security Act is amended—

(1) by striking out "year after 1973" and inserting in lieu thereof "year after 1975"; and

(2) by striking out "$12,000" and inserting in lieu thereof "$13,200".

By Mr. CHURCH (for himself and Mr. MAGNUSON):

S. 633. A bill to authorize the Secretary of Labor to make grants for the conduct of older Americans home-repair projects, and for other purposes. Referred to the Committee on Labor and Public Welfare.

OLDER AMERICANS HOME REPAIR ASSISTANCE ACT

Mr. CHURCH. Mr. President, on behalf of the Senator from Washington (Mr. MAGNUSON) and myself, I introduce for appropriate reference the Older Americans Home Repair Assistance Act.

Nearly 70 percent of all persons 65 or older now own their homes. But homeownership—even though it may

have required a lifetime of toil and savings—does not automatically guarantee comfort, security or satisfaction. Today many aged homeowners are caught in the web of spiraling maintenance costs. In far too many cases, there is simply no way out.

Over the past 4 years, the overall cost of living has increased by 19 percent. Home maintenance costs, however, have jumped by 30 percent.

As a result, large numbers of older Americans find it impossible to stretch their limited incomes far enough to maintain or repair their homes. Others cannot perform these tasks because of failing health. And some, especially elderly widows, do not have the necessary skills to repair leaky roofs or do other necessary chores to rehabilitate their deteriorating homes.

Today it is estimated that perhaps 6 million older Americans live in dilapidated or substandard housing. It is no wonder that millions of elderly find themselves in an impossible housing situation. Rising property taxes and maintenance costs are driving them from their homes. Yet, suitable alternative rental quarters at reasonable prices are frequently not available.

The proposal that I introduce today is designed to focus on one crucial aspect of this intensifying problem: the need to make home repair services available for aged homeowners who would otherwise have difficulty in paying for these costs. To achieve this goal, my bill would authorize the Secretary of Labor to enter into contracts with public or private nonprofit organizations sponsoring home repair projects.

Supplies and materials would be furnished by the elderly homeowner, but the labor would be provided without charge. Appropriate safeguards are also included in the bill to insure that these projects would not displace employed workers or impair existing contracts.

The benefits of this undertaking, it seems to me, are many. First, vital home repairs—such as renovation of decaying houses, rebuilding porches, and installing window glass—would help many elderly persons to live independently in their own homes. From a policy standpoint, this is particularly desirable because most older Americans would prefer to remain in their own homes.

Second, this measure would also provide new and gainful job opportunities for unemployed individuals 55 or older. For many older workers—particularly those with skills outdistanced by technological advances—serving others in their own communities can offer a second and exciting career. The importance of this thrust should not be underestimated because more than 500,000 persons 55 or older are now unemployed. Moreover, this figure probably only represents the tip of the iceberg since there is a substantial amount of "hidden" unemployment among persons in this age category.

Third, enactment of this measure would help to build upon the solid achievements of the Mainstream pilot projects, such as Green Thumb, Senior Aides, Senior Community Service Aides, and the Senior Community Service Program. These projects have proved to be enormously successful, and they should become national programs.

Safe and decent housing is indispensable for a satisfying life for the elderly. And passage of the Older Americans Home Repair Assistance Act can be an important stepping stone toward the longstanding goal of a suitable living environment for the aged.

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

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

S. 633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Americans Home Repair Assistance Act of 1973".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(1) "eligible individual" means an individual who is at least 55 years of age, who has an income, as determined by the Secretary, not in excess of 125 percent of the poverty level income for poor individuals established for that fiscal year by the Director of the Office of Management and Budget, and who has or is determined reasonably likely to have difficulty in securing employment;

(2) "home-repair project" means any work determined by the Secretary to be appropriate for any eligible individual to perform with respect to the repair of a home of any adult categorical assistance recipient under the Social Security Act or any other eligible homeowner and includes carpentry, painting, masonry, plumbing, wallpapering, and electrical work;

(3) "eligible homeowner" means any person aged 65 or older whose income is not in excess of the intermediate budget for a retired couple in urban areas of the United States, as determined by the most recent data available to the Secretary;

(4) "Secretary" means the Secretary of Labor;

(5) "State" means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

APPROPRIATIONS AUTHORIZED

SEC. 3. There are hereby authorized to be appropriated $———— for the fiscal year ending June 30, 1973, and $———— for the fiscal year ending June 30, 1974.

PROGRAM AUTHORIZED

SEC. 4. (a) In order to promote work opportunities for unemployed or underemployed persons who are at least 55 years of age and who have poor employment prospects and to assist eligible homeowners to repair their homes, the Secretary is authorized in accordance with the provisions of this Act, to enter into contracts with public or private nonprofit agencies or organizations for the conduct of home repair projects by eligible individuals.

(b) The Secretary shall not enter into any contract under this Act unless he determines that such project—

(1) will provide work opportunities for eligible individuals who do not have opportunities for other suitable paid employment;

(2) will provide work for such individuals only on a home-repair project;

(3) will result in an increase in employment opportunities for eligible individuals and will not result in the displacement of employed workers or impair existing contracts;

(4) will utilize methods of recruitment and selection which will assure that the maximum of eligible individuals will have an opportunity to participate in the project to be assisted;

(5) will include such short-term training as may be necessary to make the most effective use of the skills and talents of those eligible individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained including a reasonable subsistence allowance;

(6) will assure that reasonably safe and healthy conditions of work will be provided, and will assure that persons employed under such programs will be paid at rates comparable to the rates of pay prevailing in the same labor market area for persons employed in similar work, but in no event shall any person employed under such programs be paid at a rate less than that prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, or the appropriate State minimum wage, whichever is higher;

(7) will be administered with the advice of persons who are knowledgeable with regard to the needs of older persons; and

(8) will authorize pay for transportation costs of eligible individuals which may be incurred in employment in any project assisted under this Act in accordance with regulations promulgated by the Secretary.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 5. The Secretary shall establish criteria designed to achieve an equitable distribution of assistance among the States and between urban and rural areas under this Act. In developing such criteria the Secretary shall consider, among other relevant factors, the ratios of population, unemployment, and income levels.

LIMITATIONS ON FEDERAL ASSISTANCE

SEC. 6. (a) Federal financial assistance to any program carried out pursuant to this Act shall not exceed 90 per centum of the cost of such program, including costs of administration. The Secretary may approve assistance in excess of 90 per centum if he determines, pursuant to regulations establishing objective criteria for such determinations, that it is necessary to further the objectives of this Act to pay such excess. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services.

(b) Payments under this Act may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary determines necessary to carry out the objectives of this Act.

INTERAGENCY COOPERATION

SEC. 7. The Secretary shall consult and cooperate with the Office of Economic Opportunity, the Administration on Aging, and any other related Federal agency administering related programs, with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this Act with other public and private programs or projects of a similar nature. Such Federal agencies shall cooperate with the Secretary in disseminating information about the availability of assistance under this Act and in promoting the identification and interests of individuals eligible for employment in projects funded under this Act.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 8. Eligible individuals who are employed in any project assisted under this Act shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

ADMINISTRATION

SEC. 9. (a) The Secretary shall prescribe regulations to assure that programs assisted under this Act have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, availability of in-service training

and technical assistance programs, and other policies as may be necessary to promote the effective use of funds received under this Act.

(b) The Secretary may prescribe such additional rules and regulations as he deems necessary to carry out the provisions of this Act.

(c) In carrying out his functions under this Act, the Secretary is authorized to utilize, with their assent, the services and facilities of Federal agencies without reimbursement, and with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement.

REPORT

SEC. 10. The Secretary shall transmit, as a part of the annual report required of the Department of Labor, a detailed report setting forth the activities conducted under this Act.

By Mr. CHURCH (for himself and Mr. McCLURE):

S. 634. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

LANDS FOR THE KOOTENAI TRIBE

Mr. CHURCH. Mr. President, I am today introducing legislation on behalf of myself and my distinguished colleague (Mr. McCLURE) which would declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes.

The Kootenai Tribe of Idaho has no tribal land at present. The tribe has long desired the return of the Kootenai Mission Village site, which consists of 12.5 acres of land owned by the U.S. Government, 2.5 acres of which were purchased by the United States in 1914 from Kootenai allotment No. 11 to be used as the site for a Kootenai Indian school. With the acquisition of this specified acreage they can construct a tribal community center—an important step for the continuance of the social and economic development of the tribe.

Similar legislation was introduced by Senator Len Jordan and myself during the 92d Congress. I am pleased that my distinguished colleague, Mr. McCLURE, who as a Congressman sponsored the House of Representatives' version of this legislation last year, is joining me in an all-out effort to obtain this small tract of land in north Idaho for the Kootenai Tribe of Idaho.

By Mr. BENTSEN:

S. 635. A bill to subject the Federal, State, and local governments to the provisions of the Age Discrimination in Employment Act of 1967. Referred to the Committee on Labor and Public Welfare.

AGE DISCRIMINATION IN EMPLOYMENT LEGISLATION

Mr. BENTSEN. Mr. President, I introduce for appropriate reference a measure to bring Federal, State, and local employees under the jurisdiction of the Age Discrimination in Employment Act of 1967.

This is essentially the same legislation I introduced last year, both as a separate bill and as an amendment to the Fair Labor Standards Act. It received unanimous Senate support, passing by a vote of 86 to 0. Unfortunately, the House refused to go to conference because of disagreements concerning the proposed level of the minimum wage, and, as a consequence, my amendment died along with the rest of the bill.

I am convinced, however, that there is little opposition to the substance of this bill. Indeed, it has been hailed by leaders in both parties as a necessary step to afford Government employees the same protection against age discrimination as we now afford to employees of private business.

Mr. President, I have been asked what constitutes age discrimination. There can be several answers to that question. Age discrimination occurs when an employee's qualifications for being hired, promoted or paid are determined primarily on the basis of his age rather than on the merits of his performance.

For example, if a private industry or a governmental agency, has a pattern of refusing to consider middle-aged or older workers for any job openings, or placing the major burden of layoffs on the elderly, or paying lower salaries to older workers, that industry or that agency may be engaging in age discrimination practices.

In Government employment, which received the thrust of this bill, if employees are subject to pressures from their administrators to retire as the result of so-called "reduction in force" orders cutting employment, if they are harassed by being repeatedly transferred, if they are denied their right to "bump" employees with less experience when personnel cutbacks are ordered, or indeed, if they are subject to psychological pressures from their superiors urging them to retire before their time, they may be the victims of age discrimination.

Mr. President, this legislation is particularly significant at this time. The President, as we know, has ordered a cutback in Government personnel. In general, I support his objectives, for I believe that the bureaucracy has become bloated and unmanageable. But I want to make very sure that when and if cutbacks are made that the main burden of the reduction does not fall upon older workers simply because they have attained a certain chronological age. That would be an unconscionable retreat from responsibility.

Indeed, with longevity steadily increasing and medical science on the verge of unlocking the secrets of aging, it makes little sense to concentrate on moving older workers out of the labor force. Our efforts, rather, should be directed at improving employment opportunities beyond the age of 60 so that our older citizens can have the maximum opportunity to remain productive as long as they have the ability and the desire to work.

Mr. President, the crux of this legislation is the section concerning age discrimination in Federal Government employment. The administration last year offered a bill as a substitute for mine which would have protected State and local employees without extending protection to Federal workers. In my view, that omission would leave the bill substantially flawed.

We know from reports in the Wall Street Journal, the Washington Post, and the Washington Star that there is widespread age discrimination in Federal employment. We know from a special study completed by the Senate Select Committee on Aging that there are repeated instances of subtle and direct discrimination against Federal workers.

In fact, the Senate report, entitled "Cancelled Careers", concludes:

> There is very disturbing evidence to suggest that the Federal Government—which it seems clear, ought to be a model employer—may be a leading offender in applying pressure tactics to coerce older employees to retire at an early age.

The "disturbing evidence" referred to by the committee includes the following harsh facts:

First. Federal training programs are frequently "off limits" to persons 45 and older. Less than 4 percent of all first time enrollees in Federal manpower and training programs are 45 and older. Yet this age group accounts for 20 percent of the unemployment in the United States and 30 percent of the long-term joblessness.

Second. The number of discontinued service or "involuntary" early retirements has soared in the last several years. Figures for fiscal year 1971 show that they were two and one-half times as great as in 1970 and six times that of the total of 1969.

Third. Annuity income received by early retirees under the involuntary retirement provisions usually replaces less than one-half of their Government salary.

Mr. President, quite apart from the economic problems created by Government pressures against older workers, enforced retirement or the setting of arbitrary age limits on hiring can lead to what one commentator has termed "a human tragedy." The central issue is whether we want to give older workers a feeling that they can still contribute, that their age is no bar to a productive life. If we fail to give our older citizens an equal chance in employment opportunities, we may add to the feeling of uselessness which is so prevalent among older Americans today.

I believe that this legislation will insure that older employees receive that equal chance, and I will continue my efforts to see that it is signed into law during this session of Congress.

By Mr. MONDALE (for himself, Mr. MANSFIELD, Mr. PROXMIRE, Mr. McGOVERN, Mr. HUMPHREY, Mr. PELL, Mr. BURDICK, Mr. WILLIAMS, and Mr. HASKELL):

S. 637. A bill to protect the free flow of information coming into the possession of the media of communication. Referred to the Committee on the Judiciary.

Mr. MONDALE. Mr. President, last August, when I introduced the Free Flow in Information Act of 1972, a major threat to the freedom of our Nation's press was looming on the horizon. On June 29, 1972, the Supreme Court in the

case of Branzburg versus Hayes had determined that the first amendment does not afford newsmen protection from answering a grand jury's questions, even though these answers may require the disclosure of confidential information and sources.

In August, much of the danger posed by this decision lay in the future. Today, these threats have become realities, and the need for effective action has grown even more urgent.

The American educator Zechariah Chaffee, Jr., in 1947 accurately uncovered the primary reason why we must be concerned with these threats to press freedoms. He stated:

In many subjects the complexity of the pertinent facts increases. Equal access to the facts becomes more and more difficult. The power of government over the sources of information tends to grow. Hence the misuse of this power by government becomes a more and more serious danger. What is significant is the enormous recent expansion of the subjects which officials are seeking to hide from publication until they give the signal.

If action is not taken to reverse the trend toward the harassment and imprisonment of newsmen, we will find ourselves with only one source of information—the Government official. We will find ourselves without the information on corruption or waste or inefficiency in Government which is so often provided by a source who does not want his identity revealed. Indeed, in many such instances, these sources are themselves Government employees and, for them, revelation of their identity would mean almost certain dismissal.

As Mr. Justice Stewart noted in his dissent in Branzburg:

The full flow of information to the public protected by the free press guarantee would be severely curtailed if no protection whatever were afforded to the process by which news is assembled and disseminated.

This fear expressed by Mr. Justice Stewart is by no means unique. Two years ago, Dan Rather, CBS News White House reporter, submitted an affidavit in the Ninth Circuit case of United States versus Caldwell—one of the cases ultimately decided by the June 29 Branzburg decision. In it, he referred to a longtime friend and confidential news source:

This decent, honest citizen, who cares deeply about his country, has now told me that he fears that pressure from the Government, enforced by the courts, may lead to violation of confidence, and he is therefore unwilling to continue to communicate with me on the basis of trust which existed between us.

Instances such as this are multiplying since the Supreme Court ruling of last June.

Recently, CBS wanted to interview a welfare mother who had been cheating by collecting welfare payments while her husband was living with her. The interview was to help dramatize how some current welfare regulations have actually encouraged the breakups of families. Producer Ike Kleinerman agreed to disguise the woman's voice and appearance. The woman, however, feared prosecution, and demanded a pledge that the network not reveal her name if demanded to do so through a Government subpena. Kleinerman called CBS legal counsel in New York, and was told that the network simply could not guarantee its ability to protect the woman's identity. The interview was cancelled.

This is not an isolated instance. As columnist James J. Kilpatrick recently noted:

Newsmen across the country, at considerable personal danger, are undertaking to report on the extent of the traffic in marijuana and narcotic drugs. It is a big story. This is news the people are entitled to have if they are to make wise policy decision on a major social problem. But the story cannot be reported fully. Subjects who might have cooperated a couple of years ago have clammed up now. They have read the papers, and they know that investigative reporters are being jailed or hard-pressured to reveal their sources.

Numerous other similar examples could be cited. The essential point, however, is that we are facing a major crisis in the ability of the press to report the type of news that we need to know, if we are to maintain our status as a democracy in which there is a free and open exchange of ideas. We are face-to-face with the dangerous situation of reporters and other newsgatherers being unable to uncover news of waste in Government, or the extent of the hard-drug traffic, or the attitudes and plans of extremist groups of either the right or the left.

At the same time, we are also facing an unprecedented expansion of governmental use of "background briefings," in which the Government leaks the information it desires to reporters on the condition that the source of such information not be revealed.

The practical effect of these twin trends is that we are getting more and more of what the Government wants us to know—and less and less of the other side of the facts. We are being fed Government information on a confidential basis, at the same time that our reporters are finding it increasingly difficult to obtain information in confidence which would prove corruption or waste in Government.

The specter of this one-sided relationship has aroused the interest of people of all political persuasions, including many of the very Government officials who respect the press for the function which they play in keeping Government honest.

Governor Nelson Rockefeller of New York, in supporting the concept of shield legislation recently, noted that without it that:

The kind of resourceful, probing journalism that first exposed most of the serious scandals, corruption and injustices in our nation's history would simply disappear. . . . I would far prefer a society where a free press occasionally upsets a public official to a society where public officials could ever upset freedom of the press.

Gov. Wendell Anderson, of my State of Minnesota, noted in his State-of-the-State message this year that:

Reporters are being prosecuted not because they are irresponsible, but precisely because they have been responsible to their basic function of publishing the truth.

Everyone in public life occasionally disagrees with some article or coverage. But government officials who fear the press, and seek to suppress it, are very short-sighted indeed. For our system of government itself would die without the freedom of speech and freedom of the press guaranteed us in the First Amendment.

Since the ruling of the Supreme Court in Branzburg v. Hayes, the attack on the ability of reporters to protect their sources and information has been steadily mounting.

In New Jersey, reporter Peter Bridge was jailed for 21 days for refusing to answer five specific questions from a grand jury regarding an article he had published on corruption in the Newark Housing Authority. This, in spite of the fact that he had already answered 80 questions from the grand jury before refusing to answer those which would have required him to violate a confidence.

In California, reporter William Farr has spent over a month in jail for refusing to tell a Los Angeles Superior Court judge which of six attorneys in the Charles Manson murder trial gave him incriminating information he published in a Los Angeles paper, in violation of the judge's order banning all publicity in the trial. This, in spite of the fact that, when the article was published, the jury had been sequestered, and could not have been prejudiced by publication of the information which Mr. Farr revealed.

In Washington, D.C., John Lawrence, Washington bureau chief of the Los Angeles Times, was jailed briefly on December 19 for refusing to produce tapes of an interview held by two Times reporters with Alfred Baldwin, a key Government witness in the Watergate bugging case. This, in spite of the fact that an appeal had been lodged. As Lawrence stated:

I am deeply shocked that in America a journalist can be put behind bars even for a few minutes while his case is still subject to appeal.

In addition, to these jailings, and the brief jailing of Harry Thornton in Chattanooga, Tenn., for failing to reveal a source, there have recently been about a dozen other attempts by courts, prosecutors, and legislators—through contempt citations, subpenas, and other devices—to obtain confidential information and sources.

The legislation which I am introducing today, along with Senators MANSFIELD, PROXMIRE, MCGOVERN, HUMPHREY, PELL, BURDICK, WILLIAMS, and HASKELL, would seek to put an end to the jailings and harassment of newsmen which we have witnessed for the past months. This is needed both to protect newsmen and their sources, but more importantly to insure that these sources continue to come forth with the type of information on which an informed populace must rely.

While we, in Congress, must carefully study the exact contours of any legislation we ultimately enact, we must utilize the public concern over this encroachment of freedom of the press to mobilize effective and quick action.

The legislation I am introducing today would provide a strong, qualified protection for news gatherers, consistent with the legitimate right of the Government to

sccure certain very limited types of information. Part of this bill owes its origin to an ad hoc drafting committee of media organizations, which studied various alternative sets of language, and to which I am grateful.

This legislation would apply in all Federal and State proceedings, including courts, grand juries, legislative committees, and administrative tribunals.

The great majority of the recent jailings and harassment of news gatherers since the Branzburg decision have resulted from State proceedings. Protection is needed now to insure uniformity among the States, to provide protection for news gatherers in each of the 50 States. There is now a good deal of interest at the State level in protecting newsmen. However, the degree of interest varies from State to State, and the provisions of proposed State statutes also vary widely.

If we are to secure the continued free flow of information from those sources who are now refusing to speak because of the events of recent months, we must provide a mechanism for uniformity of standards nationwide. We need one approach, with tightly drawn standards and procedures, to provide as much certainty as possible.

This bill will protect both the source of any published or unpublished information and any unpublished information obtained in the gathering, receiving or processing of information for any medium of communication to the public.

Consistent with historical Supreme Court rulings on first amendment rights, the media of communication covered by the act are defined broadly, to include newspapers, magazines or other periodicals, books, wire services, news or feature syndicates, broadcast stations or networks, or cable television systems.

While providing strong protection for newsmen, the bill does allow the Government—in certain, very limited circumstances—to obtain sources of information. However, the showing which the Government must make is a very stiff one indeed, and this showing must come at the earliest possible procedural point in any trial or inquiry.

It is the opinion of many in the news media—an opinion in which I concur—that the degree of protection offered by any qualified bill increases directly in proportion to the procedural difficulty the Government must face in order to obtain divestiture of the protection. Therefore, unlike the qualified shield legislation of the past, my bill makes it clear that no subpena will be issued until the Government has made its showing. This places the burden of going forward entirely on the Government, where this burden belongs.

Under terms of my legislation, a reporter or other newsgatherer could not be compelled even to appear inside a closed grand jury or committee room until the Government had made its showing of need.

This showing would require the person seeking divestiture to prove:

First, that there is probable cause to believe that the person from whom disclosure is sought possesses information or source identities relevant to a specified probable violation of law;

Second, that the Federal or State proceeding in question has clear jurisdiction over this probable violation of law;

Third, that the information or source cannot be obtained by alternative means; and

Fourth, that there exists an imminent danger of foreign aggression, espionage, or threat to human life, which cannot be prevented without disclosure.

The Government would be required to show by clear and convincing evidence the existence of all four conditions before divestiture of the protection could be ordered by the court.

These conditions together insure that the only types of information or source identities which the Government or any other party seeking disclosure could obtain would be limited to absolutely essential matters. In particular, condition 2 would prevent unauthorized grand jury "fishing expeditions," and condition 4 by requiring "imminent danger" makes divestiture substantially more difficult than in earlier qualified newsman's shield legislation. In addition, substitution of this type of language for the more general "compelling and overriding national interest" insures that court interpretations will not emasculate the protection which the act is designed to afford.

Finally, my legislation specifically states that should the Government succeed in making the required showing at the trial court level, the protection of the act would remain in full force until all appeals are exhausted.

The need for legislation of the type I am introducing today is urgent. The interests at stake are no less than the survival of the system of free inquiry and expression as the basis of our democracy.

Justice William O. Douglas has placed these interests in a broad and eloquent perspective.

> Free speech and free press—not spaceships or automobiles—are the important symbols of Western civilization. In material things, the Communist world will in time catch up. But no totalitarian regime can afford free speech and a free press. Ideas are dangerous—the most dangerous in the world because they are haunting and enduring. Those committed to democracy live dangerously for they stand committed never to still a voice in protest or a pen in rebellion.

This is what is at stake in our fight to preserve the press freedoms we have all come to take for granted. If we do not act, we will witness these freedoms slowly but steadily drifting away, leaving each one of us so much the poorer as a result.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD at the conclusion of my remarks.

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

S. 637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be entitled "The Free Flow of Media Information Act".

SECTION 1. The Congress hereby finds and declares that—

(a) those who gather, write, or edit information for the public or disseminate information to the public can perform a vital function which can only be properly exercised in a free and unfettered atmosphere, marked by the absence of direct or indirect governmental restraint or sanction imposed by governmental process;

(b) such persons must be encouraged to gather, write, edit, or disseminate information vigorously and freely so that the public can be fully informed;

(c) such persons, to properly exercise their freedom to gather, write, edit, or disseminate such information must rely on a wide variety of sources for information;

(d) compelling such persons to disclose a source of information or disclose unpublished information is contrary to the public interest, and inhibits the free flow of information to the public;

(e) the inhibition of the free flow of information through any medium of communication to the public adversely affects interstate commerce; and

(f) the purpose of this Act is to implement the urgent need to provide effective measures to halt and prevent this inhibition and insure the free flow of news and other information to the public.

SEC. 2. Except as provided in section 4, no person shall be required to disclose in any Federal or State proceeding either—

(a) the source of any published or unpublished information obtained in the gathering, receiving, or processing of information for any medium of communication to the public, or

(b) any unpublished information obtained or prepared in the gathering, receiving, or processing of information for any medium of communication to the public.

SEC. 3. For the purpose of this Act, the term—

(a) "Federal or State proceeding" includes any proceeding or investigation before or by any Federal or State judicial, legislative, executive or administrative body;

(b) "Medium of communication" includes any newspaper, magazine or other periodical, book, news service, wire service, news or feature syndicate, broadcast station or network, or cable television system;

(c) "Information" includes any written, oral or pictorial news or other material;

(d) "Published information" means any information disseminated to the public by the person from whom disclosure is sought;

(e) "Unpublished information" includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes, or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated;

(f) "Processing" includes compiling, sorting, and editing of information;

(g) "Person" means any individual, and any partnership, corporation, association, or other legal entity existing under, or authorized by, the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

SEC. 4. (a) In any Federal proceeding where a person seeks information or the source of information protected by section 2, no subpoena *ad testificatum,* subpoena *duces tecum,* or any other compulsory process demanding disclosure of sources of information or information protected by section 2 shall be issued unless such person applies to the United States district court for an order divesting such protection. Such application shall be made to the district

court in the district wherein the proceeding in which the information sought is pending. Timely notice of such application shall be served by the applicant on the person from whom disclosure is sought.

(b) In any state proceeding where a person seeks information or the source of information protected by section 2, no subpoena *ad testificatum*, subpoena *duces tecum*, or any other compulsory process demanding disclosure of sources of information or information protected by section 2 shall be issued unless such person applies to the state trial court of general jurisdiction for an order divesting such protection. Such application shall be made to the state trial court in the judicial district or division wherein the proceeding in which the information is sought is pending. Timely notice of such application shall be served by the applicant on the person from whom disclosure is sought.

(c) Such application shall allege:

(1) the name of the person from whom disclosure is sought,

(2) the specific information sought or the identity of the source sought and its direct relevancy to the proceeding,

(3) the following conditions:

(A) that there is probable cause to believe that the person from whom the information or source of information is sought possesses information or knowledge of the identity of a source of information which is clearly relevant to a specific probable violation of law;

(B) that the Federal or state proceeding has clear jurisdiction over the specific probable violation regarding which such information or the source of such information is sought;

(C) that the information or source of information sought cannot be obtained by alternative means; and

(D) that there exists an imminent danger of foreign aggression, of espionage, or of threat to human life, which cannot be prevented without disclosure of the information or source of information.

(d) The court may issue an order requiring disclosure in whole or in part if, after hearing the parties, it finds that the person seeking divestiture of the protection of section 2, by clear and convincing evidence, has demonstrated the existence of conditions (c) (3) (A), (B), (C) and (D).

SEC. 5. Any order divesting the protection of section 2 shall be subject to appeal. During the pendency of any such appeal, the protection of section 2 shall remain in full force and effect.

Mr. WILLIAMS. Mr. President, I join with the distinguished Senator from Minnesota in introducing the Free Flow of Media Information Act.

James Madison once said:

A popular Government without popular information, or the means of acquiring it, is but a Prologue to a Farce or Tragedy; or, perhaps both. Knowledge will forever govern ignorance; And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.

Last June, in Branzburg against Hayes, the Supreme Court held by a margin of 5 to 4 that the first amendment's guarantee of a free press does not relieve a newsman of the obligation to respond to questioning by a grand jury even though his answers might require the disclosure of confidential information and sources. The Court indicated, however, that Congress is free to establish a statutory newsmen's privilege, and in my opinion such legislation is imperative to preserve the public's right to be informed.

The principle underlying the first amendment's guarantee of a free press is that effective self-government cannot succeed unless the people are immersed in a steady, uncensored flow of opinion and reporting which is continuously open to critique, rebuttal, and reexamination. It seems to me that unless a newsman is able to protect his sources of information the historic independence of the press will be undermined. Without protective legislation potential informants will never be sure that their identities or off the record communications will not subsequently be revealed through the compelled testimony of a newsman. A public spirited person inside government, who is not implicated in any crime, will be fearful of revealing corruption or other government wrongdoing, because he will know he can subsequently be identified by the use of compulsory process. As Mr. Justice Douglas stated in his dissenting opinion in Branzburg:

A reporter is no better than his source of information. Unless he has a privilege to withhold the identity of his source, he will be the victim of governmental intrigue or aggression. If he can be summoned to testify in secret before a grand jury, his sources will dry up and the attempted exposure, the effort to enlighten the public, will be ended. If what the court sanctions today becomes settled law, then the reporter's main function in American society will be to pass on to the public the press releases which the various departments of government issue.

We must enact legislation to insure that the journalistic profession is not annexed by Federal or State authorities as an investigative arm of government.

I think that the Free Flow of Media Information Act represents the most reasonable approach to this problem. This bill provides that no person will be required to reveal information or sources obtained in the course of gathering news unless the government makes the following showing:

First, that the person from whom the information is sought has information directly relevant to a specific probable violation of law;

Second, that the information is not available through alternative means;

Third, that the court, grand jury, legislative or executive body has clear jurisdiction over the violation of law regarding which information is sought; and

Fourth, that there exists an imminent danger of threat to human life, of espionage, or of foreign aggression.

This bill's protection against revealing sources and information applies in all Federal or State proceedings including grand juries, courts, and legislative committees.

Mr. President, I am reminded of the words of the late Mr. Justice Black on the historical role of the press in our society. He said:

The press was to serve the governed, not the governors. . . . The press was protected so that it could bare the secrets of government and inform the people.

Speech is often provocative and challenging, and as such it is the bulwark of a free society. The Free Flow of Media Information Act is an effective way of preserving the public's right to be informed and of insuring that freedom of the press and freedom of speech are not destroyed. I commend it to my colleagues.

By Mr. BAYH:

S. 639. A bill to limit subsidy payments under the wheat, cotton, and feed grain programs. Referred to the Committee on Agriculture and Forestry.

FARM SUBSIDY CEILING

Mr. BAYH. Mr. President, the goal of reduced Federal spending has already been established as one of the main themes for the 93d Congress. During the coming debate, it will be Congress responsibility to slash unnecessary spending and to fight for funds to assist the truly needy.

With this goal in mind, I am introducing a bill to place a $20,000 ceiling per farmer on farm subsidy payments during the next 3 years. I am introducing this bill because I believe the $55,000 payments limit passed by Congress in 1970 has been insufficient to curtail the past pattern of huge subsidies to a few large farmers. Both the Department of Agriculture and the General Accounting Office have verified that the $55,000 limit simply resulted in a proliferation of partners in farming operations so that the same large subsidies to each farm were merely redistributed among more family members or corporate subdivisions. In addition, the Department of Agriculture and the GAO have issued reports indicating that a $20,000 payment limitation would not have the adverse effect on farm programs which opponents of such legislation have claimed. Therefore, I believe that this year is a propitious time to reduce the payments ceiling.

As a brief background of my interest in this field, let me say that I express my concern in this matter of agriculture as one who has spent most of his life actively engaged in the agricultural industry of his State, from a youth on the farm, through education in one of our finest land-grant colleges, where I continue to own and operate a family farm in Indiana. I have been deeply involved in what it takes to make a going operation on the farm.

A $20,000 limitation, Mr. President, would result in substantial savings to the American taxpayer. An even more compelling argument for adopting a $20,000 payment limitation, however, is the need to insure that the benefits of subsidy programs would be distributed more equitably. The Department of Agriculture, for example, has concluded that the $55,000 limitation enacted in 1970 which was supposed to be a great breakthrough, resulted simply in the large payments being shared among more family members and corporate subdivisions. In effect, there has been little or no effect of the $55,000 limitation because of legal loopholes contained in the legislation providing for that enactment.

In response to Senate Resolution 153, the Department of Agriculture submitted a report to the Senate which indicates that a $20,000 limitation would not have any adverse effect on the set-aside programs. The General Accounting Office, in addition, has made an independent study of the administration of the $55,000 payment limitation in 1971 and concurs in the Department of Agriculture's conclusions.

The number of American farmers re-

ceiving subsidy payments in excess of $20,000 is incredibly small—and is even smaller percentagewise if we were to concern ourselves, as I believe we should, with family farmers and not corporate conglomerates. In the cotton program last year, the total number of producers receiving more than $20,000 was 8,810—out of 271,101 receiving payment—or a mere 3.2 percent. In the wheat program, the number of producers receiving $20,000-plus payments was only 1,088—out of a total of 1,075,000 producers receiving payments—or one-tenth of 1 percent. And in the feed grains program a mere 245 producers, out of a total of 1,712,000 receiving payments, collected more than the proposed $20,000 limit. That works out to one one-thousandth of 1 percent of the farm producers in America today. The time, it seems to me, to act on this $20,000 limitation is now, Mr. President.

It is important to look at the national trends, to show why it is important to act now and not delay another year as some of our colleagues, with every good intention, would have us do before we even consider this matter.

The number of such payments has been growing steadily each year. Four years ago only 5,914 farmers received payments in excess of $20,000, and they received a total of $273 million. Last year 13,751 farmers received payments in excess of $20,000 and they received a total of $486 million.

The number and amount of payments in excess of $20,000 per producer, 1968–71, follows:

In 1968—5,914 producers, total payments $273,333,643.

In 1969—7,705 producers, total payments $366,779,995.

In 1970—10,371 producers, total payments $414,500,000.

In 1971—13,751 producers, total payments $486,339,509.

It is almost certain that a further sharp increase in number and amount of payments in excess of $20,000 will occur in 1973 and, in my judgment, will continue to do so next year and the year after, unless we take steps to limit the increase.

The second development favoring the adoption of a $20,000 limitation results from the passage of Senate Resolution 153 on July 15, 1971. As I noted earlier, this resolution directed the Department of Agriculture to make a study and report on the effect to the $55,000 farm program payment limitation, including an evaluation of the probable effect of a $20,000 limitation. The U.S. Department of Agriculture report in response to Senate Resolution 153 was received March 15, 1972, and published as a Senate Committee on Agriculture and Forestry committee print.

In concludes that Government expenditures in 1971 were reduced only $2 million as a result of the $55,000 payment limitation. Although 1,350 producers earned payments in excess of $55,000 in 1970 totaling $138.8 million, only 466 producers had their payments reduced by a total of $2 million in 1970 by the limitation.

Of the 1,200 cotton producers who received payments in excess of $55,000 in 1970, 1,000 changed their farming operations, usually by leasing out a part of their cotton allotments or by subdividing their farms, and taking advantage of other legal loopholes which clearly had no effect in limiting subsidies to these individual owners.

It is evident from the Department of Agriculture and the GAO reports that a $20,000 limitation would not have the adverse effect on the programs which opponents of such legislation have claimed. Also, a $20,000 payment limitation would reduce governmental expenditures on a relative basis much more than the $55,000 limitation because of the greater difficulty in dividing large operations up into so many, much smaller units to take advantage of the loopholes.

Mr. President, the limitation I am proposing is designed to limit subsidies to large corporate farmers—not deny them to family farmers. The present farm payment program is now obsolete. Since the 1930's payments have been distributed according to production, and since production of goods is concentrated in more and more corporate farms today, a small number of farmers receive huge payments.

Mr. President, when farm programs were introduced in 1933, there were 7 million farms in the United States and production was spread fairly evenly among them—and, as a result, so were payments. Now there are only 3 million farms, and of that number, fewer than 1 million top farmers provide more than $25,000 worth of marketable produce per year. Family farming has been forced to give way to big business farming, and a system of payments based simply on amounts of production funnels Federal money into the hands of the big producers. Then those large producers turn around and use the money to buy more land, to further consolidate, and to then use the additional acreage to qualify for more subsidy payments. In the process, more family farms are forced out of the farming business.

Seen from this perspective, my proposal is actually only the beginning of needed reforms. In my judgment, it should be passed to indicate the resolve of Congress to begin that process of reform. It should not be looked at as a proposal which would cast our Nation's farmers into poverty by limiting needed funds. According to last year's figures, a $20,000 limit would affect only 10,143 out of about 2.4 million recipients. In other words, of the total number of recipients, only one-half of 1 percent—who are now collecting about 14 percent of total subsidy payments—would receive less money.

And, of course, if my bill were passed, they would receive less subsidy. However, I should point out that it is the largest farmers, the richest farmers that need subsidy payments the least.

In spite of all the evidence in favor of stricter limitations, there are still some opponents who argue that limitations would disrupt the supply adjustment features of the present commodity programs. Theoretically, present commodity programs are designed to aid the farmer in achieving the precarious balance between supply and the demands of the marketplace of offering direct payments as incentives to withhold acres from planting. Opponents of a payment limitation have argued that a ceiling on payments would destroy these voluntary adjustment programs by removing the incentive for large farmers to participate. In the absence of these payments, it has been said, the large efficient corporate farms would expand production and drive out the smaller farmers.

At first glance, Mr. President, that argument sounds plausible enough, but on my closer examination it fails to hold up. Using the Department of Agriculture's own figures, it appears that more than one-third of all payments are really income supplements—payments that merely supplement the incomes of already wealthy landowners—and are not required to achieve desired supply adjustment goals. In short, we are now paying out a great deal more than we need to in order to divert the required number of acres from production.

During a year when farm programs are being cut for reasons of expense, we are wasting precious dollars which could be used to better advantage elsewhere. I urge the Congress to pass this bill. I ask unanimous consent that a copy of the amendment be printed at this point in the RECORD.

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

S. 639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Savings in Farm Subsidies Act".

SEC. 2. Section 101(1) of the "Agriculture Act of 1970" (84 Stat. 1358) is amended to read as follows: "The total amount of payments which a person shall be entitled to receive under each annual program for wheat, feed grains and cotton for 1974, 1975, or 1976 crop of the commodity shall not exceed $20,000."

By Mr. FONG:

S. 640. A bill to amend the Labor-Management Relations Act of 1947 to provide more effective means for protecting the public interest and promoting settlement of emergency disputes involving the transportation industry, and for other purposes. Referred to the Committee on Labor and Public Welfare.

REFORMING TAFT-HARTLEY TO KEEP TRANSPORTATION LIFELINES OPEN

Mr. FONG. Mr. President, my State of Hawaii has just passed through an 18-month period, from mid-1971 to the end of 1972, in which, for 1 day out of every 3, our vital ocean lifeline to the west coast of the United States was cut off by labor-management disputes outside Hawaii which closed down the docks and idled the ships. Hawaii's 800,000 people were in the classic position of being held hostage by faraway disputes for which they were in no way responsible.

My colleagues know that the island State of Hawaii is anchored in the Pacific Ocean, 2,500 miles from the west coast. When the ships no longer call at our ports, there is absolutely no alternative form of surface transportation. No trucks, trains, cars, buses, nor any other means of transport on the earth's sur-

face, are available. Quite simply, that is why a shipping strike is a devastating blow to my State.

The dimensions of our situation become clear by imagining Washington, D.C., surrounded on all sides by such an immense water barrier, empty of American ships. Imagine that Washington's only supply line is by aircraft starting their flights at least as far away as Los Angeles, aircraft capable of carrying only a tiny fraction of the exports and imports essential to sustain the health, safety, and economy of this community.

For 6 of the 18 months of which I speak, this was Hawaii's experience.

With our ocean shipping service almost completely severed, we could only turn to air cargo, a strictly limited option. As I suggested in my analogy with Washington, the sheer volume of east- and west-bound shipments necessary to sustain the people and economy of Hawaii far outstrips available air cargo capacity. Ships transport an estimated 99 percent of the total freight between Hawaii and the U.S. mainland—the food, medicine, automobiles, parcel post, clothing, industrial products, cattle feed, and other imports essential to modern living, and the pineapple, sugar, textiles and other exports vital to Hawaii's economic health.

Air transport normally carries an estimated 1 percent of the total cargo tonnage between Hawaii and the mainland. When shipping is tied up and air transport becomes the only alternative, it has only a capacity to handle at most between 2 percent and 2½ percent of the normal freight tonnage. Hawaii must then forego the other 97 percent.

Commencing July 1, 1971, Hawaii's ocean lifeline was severed for 134 days, when a contract dispute involving 13,500 longshoremen on the west coast closed down the docks from Seattle to San Diego. One hundred days passed before a Taft-Hartley injunction could be obtained on the ground of national emergency. Despite two voluntary extensions of the injunction period by labor and management, however, Taft-Hartley failed to produce a settlement.

The strike, therefore, began again on January 17, 1972. Again days and weeks went by with settlement always tantalizingly close but never in hand. As a last resort, the President asked Congress to pass a bill requiring compulsory arbitration of the west coast strike. This was done, and, after the President signed the bill but before it could be put into effect, the Pacific Maritime Association and the West Coast International Longshoremen's and Warehousemen's Union reached an agreement.

Three more times last year our ocean shipping lifeline was cut—by a 2½-day work stoppage on the Hawaii docks in October and later by 41-day and 1-day strikes by the Masters, Mates, and Pilots on the west coast.

Hawaii was badly hurt by these events. During the 134-day west coast strike, unemployment rose to 6.5 percent, its highest level since statehood. Because our imports and exports dropped precipitously, workers in all sections of our economy, from the construction industry to retail trade, were laid off or put on shortened workweeks. Merchants unable to resupply and short of capital closed their doors. State tax collections dropped. Shortages became widespread, and staples disappeared from grocers' shelves. Prices increased, reducing purchasing power and depressing economic growth and activity.

Business, investor, and public confidence was further shaken by the shorter strikes which followed, particularly the 41-day west coast Masters, Mates and Pilots tieup which, by immobilizing some 40 vessels on the west coast and in Hawaii, helped bring about additional business failures.

Again and again during longshore and maritime disputes on the mainland, therefore, the people of my State became hostages because of Hawaii's geographical position in the mid-Pacific Ocean and our heavy dependence on ocean shipping.

But the people of my State have also found themselves held hostage during these strikes because existing law could not provide an effective response to the emergency which arises when Hawaii loses its essential transportation services. Nor could the law ultimately provide more than the Taft-Hartley 80-day cooling-off period as a vehicle for settlement.

For the record, I should note at this point that Taft-Hartley injunctions have failed in no less than nine of the 12 maritime and longshore disputes in which they have been used, a dismal record.

Nothing can be done to escape or change the facts of geography or commerce, of course, but action can be taken by this Congress, and should be taken by this Congress, to reform and extend the statutory remedies available in these emergency disputes in the transportation industry.

The lesson I have drawn from Hawaii's experience is that the Taft-Hartley Act must be amended with regard to emergency disputes in the transportation industry to permit, first, an extension of the Taft-Hartley cooling-off period; second, partial operation of the affected industry; and third, a procedure for guaranteed settlement of strikes and lockouts.

There is no provision for guaranteed settlement under Taft-Hartley at this time. The 80-day injunction and last-offer balloting procedures which accompany it do not assure settlement. Out of 32 Taft-Hartley emergency disputes, 14 were not resolved before expiration of the cooling-off period, and, in nine of these, all in the maritime or longshore industries, the strike then resumed. At that point, the public interest was without any remedy or defense, short of congressional action. It is clear to me that in emergency disputes in the transportation industry, upon which our intermeshed economy is so heavily dependent, the public interest requires that the President have the option of adopting a course guaranteeing settlement.

Guaranteed settlement, partial operation, and the back-to-work injunction must of necessity be made available also in regional as well as in national transportation emergency disputes and in disputes depriving any State of essential transportation services.

The bill which I introduce today, the Emergency Transportation Dispute Act of 1973, meets these objectives. I make this proposal as one who is deeply committed to the principle of collective bargaining between labor and management, and as one who is equally committed to the public interest, to the general welfare of all our citizens. On those occasions when collective bargaining, conciliation, and other normal processes have failed to settle labor-management disputes in the transportation industry, then, in the public interest, for the public good, something else must be done.

My bill is generally based upon crippling strikes legislation which was introduced on a number of occasions in the last Congress, in three instances with myself as a cosponsor. Twice the substance of these bills was offered as an amendment to pending legislation on the Senate floor, once in November 1971 to amend an economic stabilization bill and once last February to amend President Nixon's compulsory arbitration bill to end the west coast dock dispute. On both occasions, the amendment was tabled after vigorous debate, although in the second instance by a margin of just three votes, 42 to 39.

The Emergency Transportation Disputes Act of 1973 is premised on the failure of present procedures for dealing with emergency disputes in the transportation industry, as exemplified by the recent shipping strikes cutting essential services to Hawaii and the manifest public interest in securing reform.

It amends sections 206 and 208 of the Taft-Hartley Labor-Management Relations Act to make the familiar 80-day national emergency dispute injunction available also, first, if there is an imperilment of the health, safety, or economy of the Nation, second, if there is an imperilment of the health, safety, or economy of a substantial sector of the Nation, or third, if any State is deprived of essential transportation services. The substantial interruption of transportation services between the west coast of the United States and the State of Hawaii is expressly stated to constitute a deprivation of essential transportation services to my State.

By amendment to section 212, the airline and railroad industries, now subject to the dispute-resolution procedures of the Railway Labor Act, are brought under Taft-Hartley at the discretion of the President. As my colleagues are aware, Congress has had to be asked over and over again to legislate settlement of strikes in the railroad industry, because of the inadequacy of existing machinery under the Railway Labor Act.

My bill goes on to provide the President with three new alternatives which he may follow to promote settlement of emergency disputes in the five transportation industries—railroads, airlines, maritime, longshore, and trucking. These may be followed in such sequence as the President deems appropriate following the failure of an 80-day cooling-off period to bring about a settlement.

The first new alternative would be an extension of the original 80-day cooling-off period by up to 30 additional days, to give the parties additional time to settle.

Second, my bill would permit up to

180 days of partial operation in lieu of a full strike or lockout in all or a substantial portion of an industry. This action would be taken to avoid imperiling the health, safety, or economy of the Nation or a substantial sector of the Nation, or depriving any State of essential transportation services. In the event of a west coast dock strike, for example, this procedure could be used to provide emergency shipping services to Hawaii.

The third option available to the President under my bill would be the choice of the final offer selection process, or last best offer, to guarantee settlement. Under this procedure, the President directs labor and management each to submit to the Secretary of Labor a final offer constituting a complete collective bargaining agreement resolving all issues involved in the dispute. Each party may at the same time submit one alternative final offer. The Secretary of Labor shall transmit the offers to the other parties simultaneously.

If a party or parties refuse to submit a final offer, the last offer made by such party or parties during previous bargaining shall be deemed that party's or parties' final offer.

After receipt of each other's final offers, the parties shall bargain collectively for 5 days, during which period the Secretary of Labor may act as a mediator. If no settlement is reached before the end of this period, the parties may within 2 days select a three-member panel to act as the final offer selector. If the parties are unable to agree on the composition of the panel, it will be appointed by the President.

The panel shall have 30 days from the time the President directed the parties to submit final offers in which to conduct hearings and reach its determination as to which is the most reasonable of the final offers submitted by the parties. During this time, operations will continue in the affected industry and employees will continue to work and draw their pay. Strikes, lockouts, and similar activity are prohibited during this period.

The most reasonable offer selected by the panel will serve as the contract between the parties, unless the selection by the panel is found arbitrary or capricious by a Federal court. The panel cannot compromise or alter the final offer it selects, but must pick one or the other intact.

In making its selection, the final offer selection panel will be governed by such factors as past collective bargaining contracts between the parties, comparative wages, hours and conditions of work among similar employees and in industries in general, views obtained in the hearings conducted by the panel, and other elements normally considered in the determination of wages, hours, and conditions of employment. The public interest is specifically set forth as a consideration to be weighed by the final offer selection panel.

The effect of the final offer selection procedure, or last best offer, I believe, will be to draw the parties together in their negotiating positions rather than to drive them apart, as often happens in arbitration.

Final offer selection is not compulsory arbitration. Under compulsory arbitration, the arbitrator is generally thought to split the parties' differences down the middle, negating any incentive to be reasonable and to compromise. In fact, the incentive is quite the opposite, toward establishing extreme positions and extreme demands. Bargaining positions tend to become more rigid when the parties to the dispute know that an arbitrator will ultimately split their differences.

Final offer selection, or last best offer, avoids this problem by requiring the panel to select the single most reasonable final package. This provides the needed positive incentive for compromise and reasonableness, since each party knows that the most reasonable offer will be selected intact. The parties cannot risk submitting extreme or unreasonable proposals, for fear of having the total offer rejected and the offer of the other party selected.

In short, negotiations between the parties become centripetal, drawing inwards toward agreement, rather than centrifugal, moving outward away from resolution of their differences.

Hawaii has recently suffered more than any other State from the absence of the emergency transportation dispute, reforms set forth in the bill which I introduce today. My colleagues will recognize, however, that a sudden cessation of transportation services can occur anywhere in the Nation, and the inevitable result will be human stress and economic dislocation.

A number of contracts in the transportation industry are due to expire in the immediate future. These include the nationwide Teamsters contract and the west coast longshore contract on June 30. Also coming up in June are the railroad union contracts and ground crew contracts for one of our major airlines. Each of these events carries with it the potential for a transportation emergency. I respectfully request, therefore, that the committee to which my bill is referred schedule prompt hearings on this legislation.

It is my firm conviction that the national public interest requires and would be well served by enactment of the Emergency Transportation Disputes Act of 1973 by the Congress.

Mr. President, I send this bill to the desk for referral to the appropriate committee and ask unanimous consent that the text of the Emergency Transportation Disputes Act of 1973 be printed in full in the RECORD at this point, to be immediately followed by the text of my January 1973 newsletter to my constituents, which contains an extended analysis of emergency strike proposals which I believe may be of value to a larger audience.

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

S. 640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Transportation Disputes Act of 1973."

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds—

(1) that present procedures for promoting settlement of labor-management disputes in the transportation industry have too often proved insufficient to prevent serious disruptions of transportation services;

(2) that recent interruptions of essential transportation services to Hawaii because of labor-management disputes in which present procedures were not available or not effective caused extensive economic injury in that State and demonstrate the need for reformed and extended remedies to meet such circumstances;

(3) that the vital role of transportation in our intermeshed economy requires, in the public interest, that new procedures be established for resolving emergency disputes in the transportation industry, including a procedure to guarantee settlement.

(b) The Congress declares it to be the purpose and policy of this Act, through the exercise by Congress of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to make available a range of flexible procedures to be utilized in taking emergency action to assure insofar as possible that no strike or lockout in the transportation industry will imperil the national health, safety or economy, or the health, safety or economy of a substantial sector of the Nation or deprive any State of essential transportation services.

TITLE I—AMENDMENTS TO THE LABOR-MANAGEMENT RELATIONS ACT, 1947, RELATING TO EMERGENCY DISPUTES IN THE TRANSPORTATION INDUSTRY

SEC. 101. (a) Title II of the Labor-Management Relations Act, 1947 is redesignated as title II, part A.

(b) (1) Section 206 is amended to read as follows:

"SEC. 206. (a) Whenever in the opinion of the President of the United States, a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health, safety or economy or, when the strike or lockout is in an industry subject to Part B of this title, imperil the health, safety or economy of a substantial sector of the Nation or deprive any State of essential transportation services, he may appoint a board of inquiry into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public."

"(b) For the purposes of this title the substantial interruption of transportation services between the West Coast of the United States and the State of Hawaii shall be deemed and considered to deprive the State of Hawaii of essential transportation services."

(2) Section 208(a) is amended to read as follows:

"SEC. 208. (a) Upon receiving a report from a board of inquiry, the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof and if the court finds that such threatened or actual strike or lockout—

"(1) affects an entire industry or a substantial part thereof engaged in trade, com-

merce, transportation, transmission, or communication among the several States or with foreign nations or engaged in the production of goods for commerce; and

"(2) if permitted to occur or to continue will (i) imperil the national health, safety or economy or (ii), when the strike or lockout is in an industry subject to Part B of this title, imperil the health, safety or economy of a substantial sector of the Nation or deprive any State of essential transportation services.

it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate: *Provided*, That when such petition is sought to enjoin a strike or lockout in an industry subject to part B of this title it shall be heard and determined by a three-judge district court in accordance with section 2284 of title 28, United States Code."

(3) Section 208(c) is amended by substituting a semicolon for the period at the end thereof and adding the following: "except that where the proviso in section 208(a) is applicable, appeal shall be to the United States Supreme Court in accordance with section 1253 of title 28, United States Code."

(4) Section 209(a) is amended to read as follows:

"SEC. 209. (a) Whenever a district court has issued an order under section 208 enjoining acts or practices which imperil or threaten to imperil the national health, safety or economy or imperil or threaten to imperil the health, safety or economy of a substantial sector of the Nation or deprive any State of essential transportation services, it shall be the duty of the parties to the labor dispute giving rise to such order to make every effort to adjust and settle their differences, with the assistance of the Service created by this Act. Neither party shall be under any duty to accept, in whole or in part, any proposal of settlement made by the Service."

(5) Section 212 is amended to read as follows:

"ALTERNATIVE PROCEDURES

"SEC. 212. With respect to industries subject to the Railway Labor Act, the President may, at his discretion, choose procedures prescribed by the Railway Labor Act, as amended from time to time, or this title, or both."

SEC. 102. Title II of the Labor-Management Relations Act, 1947, is hereby further amended by adding a new part II B at the end of part II A to read as follows:

"PART B—ALTERNATIVE PROCEDURES FOLLOWING INITIAL EIGHTY-DAY COOLING-OFF

"APPLICABILITY OF THIS PART

"SEC. 213. This part shall apply only to the following transportation industries: (1) railroads, (2) airlines, (3) maritime, (4) longshore, and (5) trucking.

"SEC. 214. (a) If no settlement is reached before the injunction obtained pursuant to section 208 of this Act is discharged, the President may, within ten days, invoke any of the procedures set forth in section 217, 218, or 219. The President may proceed under these sections in such sequence as he may deem appropriate until it is certified by the Secretary of Labor that the dispute is settled: *Provided, however*, That the President may only invoke the procedures of a new section immediately upon the termination of the procedures of the previously invoked section and that the procedures of a section may be invoked only once during a dispute.

"(b) The President may, if he deems it consistent with the purposes of this Act, terminate any procedures invoked under section 217 or 218. He may thereafter proceed under another of sections 217, 218, or 219.

"(c) If the procedure set forth in section 219 is invoked, the President may not, in the same dispute, invoke subsequently the procedures of section 217 or 218.

"SEC. 215. The President shall immediately notify the Congress of each choice of procedure, unless the Congress has adjourned or is in a recess in which such case notice shall be transmitted as soon as Congress reconvenes.

"SEC. 216. If the President does not choose to invoke any of the procedures set forth in sections 217, 218, and 219 of this Act, the President shall submit to the Congress a supplemental report including such recommendations as he may see fit to make.

ADDITIONAL COOLING-OFF PERIOD

"SEC. 217. The President may direct the parties to the controversy to refrain from making any changes, except by agreement, in the terms and conditions of employment for a specified period of not more than thirty days from the date of his direction. During such period, the parties shall continue to bargain collectively and shall engage in no strike, lockout, or similar activity. The board of inquiry may continue to mediate the dispute with the assistance of, and in close coordination with the Director of the Federal Mediation and Conciliation Service.

PARTIAL OPERATION

"SEC. 218. (a) The President may appoint a special board of three impartial members for the purpose of having the board make the following determinations:

"(1) Whether and under what conditions a partial strike or lockout in lieu of a full strike or lockout in an entire industry or substantial part thereof could take place without imperiling the national health, safety or economy or the health, safety or economy of a substantial sector of the Nation or depriving any State of essential transportation services; and

"(2) Whether, under such conditions, the extent of such partial strike or lockout would, in the judgment of the board, appear to be sufficient in economic impact to encourage each of the parties to make continuing efforts to resolve the dispute.

"(b)(1) If the board makes a determination that there are conditions under which a partial strike or lockout can take place in accordance with the criteria specified in subsection (a), it shall issue an order specifying the extent and conditions of partial operation that must be maintained. The board shall make reasonable efforts to assure that no greater economic burden is placed on any party than that which would be caused by a total cessation of operations.

"(2) If the board makes a determination that a partial strike or lockout cannot take place in accordance with such criteria, it shall submit a report to the President.

"(c) The parties shall not interfere by resort to strike or lockout with the partial operation ordered by the board. The board's order shall be effective for a period determined by the board, but not to exceed one hundred and eighty days.

"(d) The board's order or any modification thereof shall be conclusive unless found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"(e)(1) The board shall issue its order no later than thirty days from the date of its appointment by the President, unless the parties, including the Government, agree to an extension of time, but such extension shall reduce pro tanto the maximum effective period of the board's order.

"(2) On notice to the parties, the board may at any time during the period of partial operation modify its order as it deems necessary to effectuate the purposes of this section.

"(f) Until the board makes its determination and during any period of partial operation ordered by the board no change, except by agreement, shall be made in the terms and conditions of employment, and no strike, lockout, or similar activity shall take place except as may be provided by order of the board. If the board determines that the implementation of any particular term of the existing terms and conditions of employment is inconsistent with the conditions of partial operation, it may order the suspension or modification of that term but only to the extent necessary to make it consistent with the conditions of partial operation.

"(g) The following rules of procedures shall be applicable to the board's functions under this subsection:

"(1) NOTICE OF HEARING.—Upon appointment by the President the board shall promptly notify and inform all parties, including the Government, of the time, place, and nature of the hearings, and the matters to be covered therein.

"(2) HEARING TO BE PUBLIC.—The board shall hold public hearings, unless it determines private hearings are necessary in the interest of national security, or the parties, including the Government, agree to present their positions in writing. The record made at such hearing shall include all documents, statements, exhibits, and briefs, which may be submitted, together with the stenographic record. The board shall have authority to make whatever reasonable rules are necessary for the conduct of an orderly public hearing. The board may exclude persons other than the parties at any time when in its judgment the expeditious inquiry into the dispute so requires.

"(3) PARTICIPATION BY BOARD IN THE HEARING.—The board, or any member thereof, may, on its own initiative, at such hearing, call witnesses and introduce documentary or other evidence, including a plan for partial operation, and may participate in the examination of witnesses for the purpose of expediting the hearing or eliciting material facts.

"(4) PARTICIPATION BY PARTIES IN HEARING.—The parties, the Government, or their representatives shall be given reasonable opportunity; (A) to be present in person at every stage of the hearing; (B) to be represented adequately; (C) to present orally or otherwise any material evidence relevant to the issues including a plan for partial operation; (D) to ask questions of the opposing party or a witness relating to evidence offered or statements made by the party or witness at the hearing, unless it is clear that the questions have no material bearing on the credibility of that party or witness or on the issues in the case; (E) to present to the board oral or written argument on the issues.

"(5) STENOGRAPHIC RECORDS.—An official stenographic record of the proceedings shall be made. A copy of the record shall be available for inspection by the parties.

"(6) RULES OF EVIDENCE.—The hearing may be conducted informally. The receipt of evidence at the hearing need not be governed by the common law rules of evidence.

"(7) REQUESTS FOR THE PRODUCTION OF EVIDENCE.—The board shall have the power of subpena. It shall request the parties to produce any evidence it deems relevant to the issues. Such evidence should be obtained through the voluntary compliance of the parties, if possible. In case of refusal to obey a subpena, the board may request the Attorney General to invoke the aid of any district court of the United States or the United States courts of any territory or possession within the jurisdiction of which such person is found or resides or transacts business and such court shall have jurisdiction to issue to such person an order requiring such person to appear or to produce evidence, if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any

failure to obey such order of the court may be punished by said court as a contempt thereof.

"(h) If a settlement certified by the Secretary is reached at any time during the hearing, the Board shall adjourn the hearing and report to the President within ten days the fact that a settlement has been reached and the terms of such settlement.

"(i) (1) Members of the Board shall receive compensation at the per diem equivalent of the rate for GS–18 when engaged in the work of the Board as prescribed by this Act, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

"(2) For the purposes of carrying out its functions under this Act, the Board is authorized to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"FINAL OFFER SELECTION

"SEC. 219. (a) (1) The President may direct each party to submit a final offer to the Secretary of Labor within three days. Each party may at the same time submit one alternative final offer. The Secretary of Labor shall transmit the offers to the other parties simultaneously.

"(2) If a party or parties refuse to submit a final offer, the last offer made by such party or parties during previous bargaining shall be deemed that party's or parties' final offer.

"(3) Any offer submitted by a party pursuant to this section must constitute a complete collective bargaining agreement and resolve all the issues involved in the dispute.

"(b) The parties shall continue to bargain collectively for a period of five days after they receive the other parties' offers. The Secretary of Labor may act as mediator during the period of the final offer selection proceedings.

"(c) If no settlement has been reached before the end of the period prescribed in subsection (b) of this section, the parties may within two days select a three-member panel to act as the final offer selector. If the parties are unable to agree on the composition of the panel, the President shall appoint the panel.

"(d) No person who has a pecuniary or other interest in any organization of employees or employers or employers' organizations which are involved in the dispute shall be appointed to such panel.

"(e) The provisions of section 218(h) and 218(i) (1) and (2) of this Act shall apply to the panel.

"(f) The panel shall conduct an informal hearing in accordance with section 218(g) of this Act insofar as practicable, except that—

"(1) the Government shall have no right to participate; and

"(2) the thirty-day period in which the panel shall complete its hearings and reach its determination shall run from the time that the President directed the parties to submit final offers, but in no case shall the panel close the hearing until five days from the date of its appointment as provided in subsection (c) herein.

"(g) The panel shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed by this section.

"(h) From the time of appointment by the President until such time as the panel makes its selection, there shall be no communication by the members of the panel with third parties concerning recommendations for settlement of the dispute.

"(i) The panel shall entertain applications for intervention from any persons asserting an interest because of a conflicting claim to all or any portion of the work involved in the dispute subject to these proceedings. Such application must be filed within five days from the time of appointment of the panel as provided in subsection (c) herein. The panel, thereafter, may, in its discretion allow such applicant to participate in the hearings, under rules established by the panel, solely for the purpose of presenting views in support of either of the final offers previously submitted.

"(j) Beginning with the direction of the President to submit final offers and until the panel makes its selection, there shall be no change, except by agreement of the parties, in the terms and conditions of employment, and no strike, lockout, or similar activity shall take place. In no instance shall such period exceed thirty days.

"(k) The panel shall not compromise or alter the final offer that it selects. Selection of a final offer shall be based on the content of the final offer and no consideration shall be given to, nor shall any evidence be received concerning, the collective bargaining in the dispute, including offers of settlement not contained in the final offers.

"(l) The panel shall select the most reasonable, in its judgment, of the final offers submitted by the parties and shall state, in writing, the reasons for its selection. The panel may take into account the following factors:

"(1) past collective bargaining contracts between the parties, including the bargaining that led up to such contracts;

"(2) comparison of wages, hours, and conditions of employment of the employees involved, with wages, hours, and conditions of employment of other employees doing comparable work, giving consideration to factors peculiar to the industry involved;

"(3) comparison of wages, hours, and conditions of employment as reflected in industries in general, and in the same or similar industry;

"(4) security and tenure of employment with due regard for the effect of technological changes on manning practices or on the utilization of particular occupations;

"(5) The views in support of either final offer of any additional persons permitted to intervene in the proceedings as provided by subsection (i) herein; and

"(6) the public interest, and any other factors normally considered in the determination of wages, hours and conditions of employment.

"(m) The final offer selected by the panel shall be deemed to represent the contract between the parties, except to the extent that any provision is determined, under appropriate procedures, not to be in accordance with applicable law.

"(n) The determination of the panel shall be conclusive, unless modified pursuant to subsection (m), or found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"SEC. 220. (a) Any board or panel established under part B of title II of this Act may act by majority vote.

"(b) A vacancy on any such board or panel shall not impair the right of the remaining members to exercise all of the powers of such board or panel. In the case of a vacancy due to death or resignation, the President may appoint a successor to fill such vacancy."

TITLE II—MISCELLANEOUS PROVISIONS

INAPPLICABILITY OF THE NORRIS-LA GUARDIA ACT

SEC. 201. The provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", shall not be applicable to any judicial proceeding brought under or to enforce the provisions of this Act.

RIGHTS OF EMPLOYEES

SEC. 202. Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

APPROPRIATIONS

SEC. 203. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY

SEC. 204. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[U.S. Senator HIRAM FONG Reports From Washington. Vol. XIII, No. 1, January 1973]

KEEPING OUR SHIPPING LIFELINE OPEN

Because Hawaii is an Island State in the mid-Pacific Ocean, sea transportation is literally a lifeline for our people and our economy. All of us have a vital and personal stake in finding ways to avoid shipping tie-ups, such as those which have disrupted and damaged Hawaii repeatedly over the past 18 months.

In 1971, a labor-management dispute involving 13,500 longshoremen on the West Coast began a 134-day work stoppage which affected every resident of Hawaii and increased our unemployment rate to a record 6.5%, the highest since Statehood.

Our own ILWU longshoremen stayed on the job throughout this period, by repeated voluntary extensions of their contract, and rendered invaluable service to the people of our State by moving foreign and East and Gulf Coast Cargo. But, with the West Coast cut off, our imports and exports dropped precipitously. As a result, workers in all sectors of our economy, from the construction industry to retail trade, were laid off or put on shortened workweeks. Merchants unable to resupply closed their doors. Shortages became widespread, and staples disappeared from grocers' shelves. Prices increased, reducing purchasing power and depressing economic growth and activity.

Three more work stoppages followed—a 2½-day dispute on the Hawaii docks in October and 41-day and one-day West Coast Masters, Mates and Pilots strikes.

As a result, for six of the last 18 months—or one day of every three—the vital ocean lifeline between Hawaii and the West Coast has been partially or totally cut.

Public interest legislation to reform our present means of dealing with labor-management disputes in the transportation industry is needed to safeguard Hawaii—which means protecting our jobs, personal savings, consumer purchasing power, economic development, and ultimately the whole fabric of our Island life.

I approach this problem as one who is firmly committed to the principle of collective bargaining. This is one of the cornerstones of our Nation's labor-management relations. The freedom of labor and management to bargain across the table on wages, hours, working conditions, and fringe benefits is one of the hallmarks of America's private enterprise system and distinguishes our system from many other nations where government controls and operates industry, both management and workers.

At the same time, I also have a deep commitment to the public interest, to the general welfare of our citizens. On those occasions when collective bargaining, mediation, conciliation and other normal processes have failed to settle labor-management disputes, then in the public interest, for the public good, something must be done.

EXISTING FEDERAL EMERGENCY DISPUTE LAW

The primary law permitting Federal action to curb strikes and lockouts is the Labor-Management Relations Act, known as the Taft-Hartley Act. This applies to all industries affecting commerce except the airlines and railroads.

In the event of a strike or threatened strike, Taft-Hartley authorizes the President to appoint a board of inquiry if in his opinion the dispute will "imperil of the national health or safety" and so constitute a national emergency, and if he finds that a substantial part or all of an entire industry is, or would be, affected. The board of inquiry investigates the dispute and reports the facts concerning it, without recommendation.

After the board has reported, the President may undertake to delay or end a work stoppage by seeking in court an 80-day injunction. The court must make the same findings as are required for the appointment of the Presidential board of inquiry, including the determination that a national emergency exists. Courts do not issue Taft-Hartley injunctions automatically. In 1971 the Federal Government was denied an injunction it sought in a grain elevator dispute.

If the dispute remains unsettled after 60 days despite continued bargaining and conciliation efforts, the President must reconvene the board of inquiry for a status report. During the next 15 days the National Labor Relations Board must poll the employees on whether or not they will accept the employer's last offer. Regardless of the vote outcome, the injunction must be discharged at the end of 80 days, and the strike or lockout may resume if agreement has not been reached.

The cooling-off period afforded by a Taft-Hartley injunction does not guarantee settlement of a strike or lockout. If a renewed dispute is to be stopped by Federal law, it would be necessary for Congress to enact special legislation to do so.

Injunctions have been obtained on occasion in strikes involving just a few thousand employees—as in a 1967 dispute involving 2,400 workers at the only plant making engines for troop-carrying helicopters, because the court found the engines critically needed in Vietnam and a national emergency therefore existed. National emergency injunctions have also been granted four times prior to threatened strikes: three times in 1948 (1) when a walkout by uranium production workers at Oak Ridge was imminent; (2) under threat of an all-coasts maritime strike; (3) in an Atlantic Coast longshore dispute. The fourth instance was in 1963 when the court found a work stoppage threatened by Boeing Co. aerospace employees constituted a national emergency.

TAFT-HARTLEY SELDOM ENDS SHIPPING STRIKES

Past experience demonstrates that Taft-Hartley injunctions have failed to settle 75% of all national emergency maritime and longshore strikes. Since enactment of Taft-Hartley in 1947, there have been a total of 32 national emergency disputes, 12 of which were in the longshore and maritime industries. Only one of the nine longshore and two of the three maritime disputes were settled during the 80-day cooling-off period.

Because an emergency must be national, Taft-Hartley could not even be used in the West Coast dock dispute which began on July 1, 1971, until 100 days had elapsed. By then extensive economic injury had spread to the Middle West farm belt, and another strike had closed all other Mainland ocean ports. A Taft-Hartley injunction obtained in early October, although twice extended voluntarily, failed to produce a settlement. The West-Coast shipping tie-up resumed for 34 more days. Negotiators reached agreement only after a bill requiring compulsory arbitration had been passed by Congress and signed by the President.

Again, in the 41-day Masters, Mates and Pilots strike, Taft-Hartley could not be used because this shipping tie-up did not constitute a national emergency.

NON-LEGISLATIVE EFFORTS TO END SHIPPING TIE-UPS

When Taft-Hartley does not apply or is not effective, what can be done? In addition to legislative action, which I shall discuss later, those of us gravely concerned over these transportation crises have made repeated efforts to bring the parties back to the bargaining table when negotiations broke down, as they did several times in both the 1971–72 West Coast dispute and the 41-day Masters, Mates and Pilots shipping tie-up. And, while negotiations were in progress, we worked hard to expedite agreement. For instance, in mid-September 1971, during the West Coast dock dispute, I urged that the Director of the Federal Mediation and Conciliation Service take a personal role in the negotiations. Very shortly thereafter he was directed by the President to go to the West Coast for that purpose.

Throughout both the 1971–72 West Coast and the 41-day Masters, Mates and Pilots strikes, I had frequent contact with the White House, the Secretary of Labor, the Mediation Service and others directly involved in efforts to resolve these work stoppages. All concerned were made constantly aware of the continuing and increasing economic harm inflicted on our State—the lost jobs, business failures, and crippled development.

Testifying on emergency strike legislation in Honolulu last January before the Merchant Marine Subcommittee of he Senate Commerce Committee, I asked the Subcommittee members "to help Hawaii find a viable solution to our dilemma."

I made arrangements for the Operation Blackeye group, which arrived in Washington late last January, to tell the plain truths about the economic impact of the dock strike on Hawaii at the White House and Federal agencies and to numerous Senators. I went with the group to discuss Hawaii's plight with a number of Senators and shortly afterward called attention to their mission and their message in a Senate speech.

Two months ago I joined other members of Hawaii's Congressional delegation, State government and community leaders in a wire to the President asking him to do everything possible to bring about settlement of the Masters, Mates and Pilots dispute.

NEW IDEAS FOR LABOR-MANAGEMENT PEACE

Both sides in longshore and maritime disputes suffer great losses when ships lie idle and work stops. A worker typically has payments on his mortgage, car, children's education and other obligations, which are jeopardized by loss of wages. Industry risks losing markets to foreign competition and loss of income to other forms of transportation, which often can never be recovered. In our intermeshed economy, for every worker who loses a paycheck because of his involvement in a strike or lockout, particularly in the transportation industry, several more workers in affected industries can lose their jobs or have their hours reduced. The general public suffers shortages, higher prices, delays and uncertainty.

It is evident that we desperately need new mechanisms to help all concerned—labor, management, the public—avoid the consequences of resort to strikes and lockouts.

The president of our largest national labor federation testified recently that he does not believe in strikes, though he believes in having the right to strike when he comes to the bargaining table. Meetings with the American Arbitration Association are underway for the purpose of finding out if there is some other method by which labor and management can voluntarily agree. One suggestion would be a contractual arrangement to extend for six months contracts due to expire for lack of agreement on a new contract, with an impartial arbitrator or arbitrating committee setting the terms of the extension. This could change the bargaining atmosphere—instead of everyone thinking and talking strike, there would be a much more positive relationship between the parties.

Another new negotiating procedure has been proposed by a prominent labor leader specifically to head off future shipping strikes. At regular monthly meetings, labor and shipping leaders could discuss problems as they arise in order to improve prospects that both sides would be ready to sign new contracts when old agreements expire. This idea offers hope for greater labor peace both on the Mainland and in Hawaii.

The President is expected to announce soon the formation of a National Commission for Industrial Peace, which will explore new ways for labor and management to compose their differences at the bargaining table and will suggest new crippling strikes legislation. I have urged the President to appoint to the Commission someone from Hawaii intimately familiar with the severe impact of shipping strikes on our people.

THREE BILLS FOR REFORM

While those other solutions are being considered, I have been directing my attention to legislative reform of the Taft-Hartley Act. I believe reform should provide a method whereby the workingman need not stop work and lose his wages, and the employer need not suspend operations, while new remedies are applied to help dissolve the dispute.

The unquestioned fact that our Island State is most vulnerable to maritime and longshore labor disputes, precisely the two industries in which Taft-Hartley has failed most often, has convinced me that the Act must be amended (1) to permit an injunction in regional as well as national disputes and in disputes depriving any section of the country of vital transportation services; (2) to allow essential shipping services to Hawaii; and (3) to guarantee settlement of emergency disputes in the transportation industry.

In 1971 and 1972, I cosponsored three bills to reform the Taft-Hartley Act to meet Hawaii's special needs: S. 2850, the Emergency Labor Disputes Act of 1971, S. 2959, a revised Emergency Labor Disputes Act, and S. 3232, the Transportation Crisis Prevention Act of 1972.

While retaining the familiar 80-day injunction, these bills proposed new options to use in emergency disputes in the transportation industry. These would be (1), further 15- or 30-day extensions of the injunction period; (2) partial operation of the affected industry, which could provide emergency shipping services to Hawaii, and (3) a final offer selection process, whereby a neutral panel would select the most reasonable of the final offers submitted by labor and management, which would become their binding contract unless the choice were found arbitrary or capricious by a Federal court. I was instrumental in as-

suring that these options as well as the familiar 80-day Taft-Hartley injunction would be expressly available in regional as well as national emergencies, a critical point for Hawaii.

In a statement to the Senate Labor Subcommittee on this legislation, I endorsed the final offer selection process because it places the burden of compromise where it should go, on the parties to the dispute themselves, rather than on the arbitrator. The interest of labor and management will lie in moving toward a reasonable, centrist position, since one of the offers will be selected intact as the contract. The final offer selection process is not compulsory arbitration.

Despite repeated requests by myself and others for prompt hearings, the Senate Labor Subcommittee delayed taking testimony on these and related bills to reform handling of national emergency disputes. After hearings were finally held, the full Labor Committee refused to report a bill for consideration by the entire Senate, again despite the best efforts of those of us urgently seeking reform.

SENATE VOTES AGAINST TAFT-HARTLEY REFORM

Our reform group was able on two occasions, however, to offer the substance of the bills I cosponsored as an amendment to legislation then pending on the Senate floor, once to amend an economic stabilization bill and once to amend the President's compulsory arbitration bill. I participated in vigorous floor fights on both these amendments.

During the economic stabilization debate in November 1971, the reform amendment was tabled (killed) by a vote of 58 to 29. I voted against tabling because I favored the amendment. When the President's compulsory arbitration bill came to the Senate for a vote on February 8, I and others again offered our Taft-Hartley reform proposals as an amendment to the bill. After a close hard-fought debate, the Senate tabled (killed) our amendment by a margin of just three votes, 42–39. I voted against tabling. The compulsory arbitration bill then passed the Senate 79–3, with myself voting in favor, and passed the House the next day. It was approved by the President on February 21, and the next day the ILWU and the Pacific Maritime Association reached an agreement on their own, ending the West Coast tie-up.

REFORM ACTION DURING THE 93D CONGRESS

I have already publicly pledged to introduce Taft-Hartley reform legislation in the 93rd Congress, which has just convened. I realize, as I am sure you do, that the legislative path will be a difficult one to travel in the new Congress, as it was in the last one. It is my deeply held conviction, however, that Hawaii's vital interests make imperative a renewed effort in Congress to protect our State from transportation disputes which cut our shipping lifeline. I will make that effort, exploring nonlegislative as well as legislative remedies, and I am confident of your support in so doing.

By Mr. BAYH (for himself and Mr. COOK):

S. 645. A bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes. Referred to the Committee on the Judiciary.

RUNAWAY YOUTH ACT

Mr. BAYH. Mr. President, today I am reintroducing the Runaway Youth Act, which is designed to meet the growing crisis of runaway children. I introduced the Runaway Youth Act during the 92d Congress. Cosponsored by 20 of my distinguished colleagues, it passed the Senate on July 31, 1972. Unfortunately, the 92d Congress ended before the House had the opportunity to complete action. However, at the time of adjournment, the Runaway Youth Act had been favorably reported by the General Education Subcommittee of the House Committee on Education and Labor.

More and more children run away from home each year. Yet, although the problem has become increasingly critical, neither the Federal Government nor the States have made a serious attempt to focus their resources on it. In the early 1950's an estimated 275,000 children ran away from home each year. Today, as many as 1 million children run away each year. I believe that it is time for the Federal Government to take effective action.

The runaway problem has continued unnoticed for many years because it is a silent problem, far less dramatic than most of the other ills that affect our young people. Most runaways are not criminals. Instead, they are confused boys and girls who are overburdened with personal, family, or school problems and decide to flee. They deserve our help and understanding, but instead they have been treated with indifference and even hostility.

Although most runaways have committed no crime for which an adult could be charged, running away is against the law in most States for children under the age of 18. A runaway may be brought to court and may be incarcerated in a juvenile institution. Even when this does not occur, the runaway is subject to arrest by the police. More and more runaway children have been arrested each year. In 1967, the FBI's Uniform Crime Statistics estimated that more than 130,000 arrests for running away were made by the Nation's police departments. By 1971, the FBI's estimate had risen to 269,000.

Many of these children are detained in county jail or juvenile hall before being returned home. There they are exposed to more experienced juveniles and in some cases to adult offenders. Even worse, society's concern usually ceases when the runaway is returned home. Thus, the runaway is often returned to the same probems which originally caused him to run away no better equipped to deal with them than when he first left home. For this reason, many runaways leave home again and again.

Hearings held last year by the Senate Subcommittee To Investigate Juvenile Delinquency, of which I am chairman, provided a number of insights about the typical runaway and the problems which he faces. Runaways are generally young. The largest group are 15 or 16 years old, but many are as young as 12 or 13. There are at least as many female runaways as males. However, in many places the number of female runaways seems to be increasing rapidly. While most runaways are white and from the suburbs, this is not simply a white middle-class problem. Runaways come from all racial, social, and economic groups.

Most runaways seek the anonymity of the city. Since most runaways flee from the suburbs and are generally young, their experience on the streets of most of our major cities can be extremely damaging. Being inexperienced and without resources, they are vulnerable to many of our urban dangers. For many young people, the runaway episode provides the first contact with drugs, street violence, and petty crime. In this way, many young runaways are prepared for more serious criminal behavior in the future.

The Runaway Youth Act attempts to deal with this problem by helping young people come off the street without police intervention, by returning them home, and by providing the child and his family with counseling to understand the problems that caused him to run away in the first place. The act authorizes the Secretary of Health, Education, and Welfare to provide assistance to local private and public agencies to operate temporary shelter care programs in areas where runaways tend to congregate. Unlike traditional halfway houses, these facilities are designed to shelter young people for a very short period of time rather than on a long term basis. They could be used by the courts and the police to house runaways temporarily prior to their return home or to another permanent living arrangement. However, their primary function would be to provide a place where runaways could find immediate assistance, such as medical care and counseling. Once in the runaway house, the young person would be encouraged to contact his home and reestablish a permanent living arrangement. Professional, medical, and psychological services would be available to these houses from the community as they are needed.

Most importantly, the shelters established under this act will be equipped to provide counseling for both the runaway and his family after the runaway has moved to permanent living facilities. If counseling is not appropriate or feasible, information on where to seek more comprehensive professional help will be supplied. In short, these houses will serve as highly specialized alternatives to the traditional law enforcement methods of dealing with runaways.

The act authorizes appropriations of $10 million for each of 3 years. While this amount is not large, temporary shelter care is relatively inexpensive to provide. Furthermore, experience has shown that these houses can serve a large number of clients. For those programs now in existence, it is not unusual to provide residential services for more than 500 young people a year.

The Runaway Youth Act also authorizes funds to conduct research on the scope of the runaway problem in order to collect data on the children who run away. I believe that reliable statistics rather than broad-based, general research will be more useful at the present time in developing effective approaches to the runaway youth problem. Thus, the research would focus on the age, sex, socioeconomic background of the runaway children, the places from which and to which children run, and the relationship between running away and other illegal behavior.

Mr. President, we often speak of inferior prisons, overcrowded courts, and

overworked police. But we also know that if we are ever to reduce crime and improve our criminal justice system, we must begin to help people before they come in contact with the law. The Runaway Youth Act makes this effort. It is a delinquency prevention measure designed to help troubled youngsters before they become a serious threat to society. I urge my distinguished colleagues to give it serious and favorable consideration as they did during the last Congress. I ask unanimous consent that the text of the bill and the summary be printed in the RECORD.

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

S. 645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Runaway Youth Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress hereby finds that—

(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and live on the street;

(2) that the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) that many of these young people, because of their age and situation are urgently in need of temporary shelter and counseling services;

(4) that the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities; and

(5) that in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure.

TITLE I

SEC. 101. (a) The Secretary of Health, Education, and Welfare is authorized to make grants and to provide technical assistance to localities and nonprofit private agencies in accordance with the provisions of this title. Grants under this title should be made for the purpose of developing local facilities to deal primarily with the immediate needs of runaways in a manner which is outside the law enforcement structure and juvenile justice system. The size of such grants should be determined by the number of runaway children in the community and the existing availability of services. Among applicants priority should be given to private organizations or institutions who have had past experience in dealing with runaways.

(b) The Secretary may promulgate and enforce any rules, regulations, standards and procedures which he may deem necessary and appropriate to fulfill the purposes of this act.

SEC. 102. (a) To be eligible for assistance under this title, an applicant must propose to establish, strengthen, or fund an existing or proposed runaway house, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without the permission of their parents or guardians.

(b) In order to qualify, an applicant must submit a plan to the Secretary of Health, Education, and Welfare meeting the following requirements and including the following information. Each house—

(1) shall be located in an area which is demonstrably frequented by or easily reachable by runaway children;

(2) shall have a maximum capacity of no more than twenty children, with a ratio of staff to children of sufficient proportion to insure adequate supervision and treatment;

(3) shall develop an adequate plan for contacting the child's parents or relatives in accordance with the law of the State in which the runaway house is established and insuring his safe return according to the best interests of the child;

(4) shall develop an adequate plan for insuring proper relations with law enforcement personnel, and the return of runaways from correctional institutions;

(5) shall develop an adequate plan for aftercare counseling involving runaway children and their parents within the State in which the runaway house is located and assuring, as possible, that aftercare services will be provided to those children who are returned beyond the State in which the runaway house is located;

(6) shall keep adequate statistical records profiling the children and parents which it serves;

(7) shall submit annual reports to the Secretary of Health, Education, and Welfare detailing how the house has been able to meet the goals of its plans and reporting the statistical summaries required in section 102(b)(6);

(8) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary of Health, Education, and Welfare; and

(9) shall supply such other information as the Secretary of Health, Education, and Welfare reasonably deems necessary.

SEC. 103. An application by a State, locality, or nonprofit private agency for a grant under this title may be approved by the Secretary only if it is consistent with the applicable provisions of this title and meets the requirements set forth in section 102. Priority shall be given to grants smaller than $50,000.

SEC. 104. Nothing in this title shall be construed to deny grants to nonprofit private agencies which are fully controlled by private boards or persons but which in other ways meet the requirements of this title and agree to be legally responsible for the operation of the runaway house. Nothing in this title shall give the Federal Government and its agencies control over the staffing and personnel decisions of facilities receiving Federal funds, except as the staffs of such facilities must meet the standards under this title.

SEC. 105. The Secretary of Health, Education, and Welfare shall annually report to Congress on the status and accomplishments of the runaway houses which were funded with particular attention to—

(1) their effectiveness in alleviating the problems of runaway youth;

(2) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services; and

(3) their effectiveness in strengthening family relationships and encouraging stable living situations for children.

SEC. 106. As used in this title, the term "State" shall include Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

SEC. 107. (a) The Federal share for the construction of new facilities under this title shall be no more than 50 per centum. The Federal share for the acquisition and renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(c) For the purpose of carrying out this title there is authorized to be appropriated for each of the fiscal years 1974, 1975, and 1976 the sum of $10,000,000.

TITLE II

SEC. 201. The Secretary of Health, Education, and Welfare shall gather information and carry out a comprehensive statistical survey defining the major characteristics of the runaway youth population and determining the areas of the country most affected. Such survey shall include, but not be limited to, the age, sex, socioeconomic background of runaway children, the places from which and to which children run, and the relationship between running away and other illegal behavior. The Secretary shall report to Congress not later than June 30, 1974.

SEC. 202. For the purpose of carrying out this title there is authorized to be appropriated the sum of $500,000.

SUMMARY OF THE RUNAWAY YOUTH ACT

Title I authorizes the Secretary of Health, Education, and Welfare to make grants to establish local institutions to deal primarily with runaways outside the traditional law enforcement, juvenile justice system.

Section 101 requires that grants be made on the basis of the number of runaways in the community and the present availability of services for runaways. Additionally, it requires that priority be given to private organizations who have had experience dealing with runaways.

Section 102 establishes the requirements which runaway houses must meet to be eligible to receive grants. These include: (1) location in an area frequented or reachable by runaways; (2) a maximum capacity of no more than 20; and (3) the development of adequate plans to insure proper contact with the police, safe return of the runaway, and adequate after-care counseling. Additionally, each proposed grantee must keep statistical surveys of their clients and report them annually to the Secretary. This is intended to aid in the research financed through title II.

Section 103 requires that a plan meet the requirements of Section 102 before it may be approved by the Secretary.

Section 104 insures that the Federal government will have no direct control over the staffing of the runaway houses.

Section 105 requires the Secretary to report annually to Congress on the effectiveness of runaway houses.

Section 106 includes Puerto Rico, the District of Columbia, Guam, and the Virgin Islands in the term "State."

Section 107 authorizes $10,000,000 for fiscal years 1974, 1975, and 1976. Additionally, it requires that the Federal share of the cost of constructing such houses be not more than 50 percent. The Federal share of the cost of renovating existing structures, providing counseling services and staff training, and general operating expenses is established at 90 percent.

Title II authorizes the Secretary of Health, Education and Welfare to conduct research on all aspects of the runaway problem. It authorizes $500,000 to be spent for this purpose and requires the Secretary to report to Congress no later than June 30, 1974.

Mr. COOK. Mr. President I am pleased to again join with my friend and colleague, Mr. BAYH, the Senator from Indiana, in the introduction of the Runaway

Youth Act, a bill in which we have both been extremely interested since we first introduced this legislation in November of 1971.

As a lawyer and a former county judge in Kentucky, as well as the father of five teenage children, I have been particularly concerned in recent years with the situation of young people who, in the midst of growing up and asserting their independence, have found themselves in serious legal trouble and under the jurisdiction of our criminal justice system. Quite often these youngsters are guilty of nothing more than obstinence and an overpowering desire to prove that they can do and decide things on their own. These young people are guilty of juvenile status offenses—crimes that would not be crimes if they were adults—such as running away from home.

In many States and localities throughout this country such youngsters are found and held by local police authorities and treated in much the same manner as any other criminal. I do not feel that this is either just or wise, and the purpose of this legislation is to encourage the development of alternate ways of dealing with these youngsters. A number of different programs are currently underway in various places around the country, offering counseling and encouragement to such youngsters and providing the positive sort of feedback the criminal justice system is unable to provide for them.

I am hopeful that this body will once again give prompt consideration to this proposal and that the House will act favorably on this legislation.

By Mr. BENTSEN:

S. 646. A bill to amend the Communications Act of 1934 to provide that licenses for the operation of a broadcasting station shall be issued for a term of 5 years, and to establish certain rules for the consideration of applications for renewal of broadcast licenses. Referred to the Committee on Commerce.

Mr. BENTSEN. Mr. President, due to the currently complicated and disruptive procedures for the renewal of broadcast licenses, the very future of many television and radio stations throughout the country is in question. Every station in every State is affected by present license renewal policy which is confusing and ambiguous.

The power to choose broadcast licensees and impose conditions on licenses is the power to control broadcasting in this country. It is in the interest of everyone that such power be exercised fairly and with restraint to provide a stable, responsible broadcasting service as free as possible from Government control. And it is vital that the limits of such power be clearly and unequivocally defined by the Congress.

At present, the obligations and responsibilities of broadcasters are not clear. My bill is designed to clear up the ambiguities and uncertainties involved. The Congress must specify what those holding licenses will have to do to be able to renew them and we must delineate in plain language and well-defined terms the authority of the Federal Communications Commission in this regard. This bill will assure broadcasters that if their broadcasting efforts reflect a good-faith effort to serve the community then their licenses will be renewed—but only if they have, indeed, proven that they have served their community well. I believe that an FCC policy that results in licenses being auctioned off to whatever bidder makes the most promises tends to produce instability, loss of freedom and irresponsibilty.

I wish to emphasize, Mr. President, that I in no way oppose the right of the challenger to challenge. What I do oppose is a lengthy, costly, chaotic renewal process which fails to take into full consideration the licensee's past record of service to the community. Until fairly recently a broadcaster could rely on his having substantially met and served the public interest to give him preference over a new applicant for the license. However, in the landmark WHDH case in 1969, the FCC, giving little credit to the licensee for past performance, took the license away and awarded it to the competing applicant. This decision injected into the license renewal procedure a degree of instability which goes against the public interest.

A series of further FCC and U.S. court of appeals decisions has done little to clarify the situation. Broadcasters are just not sure as to what criteria they must meet to have their licenses renewed. Management assumes an unnecessarily high risk in making long-term capital commitments to improve the quality of transmission and service of its station. The costs of such investments may not be amortized over a reasonable length of time because of the increased possibility of arbitrary or capricious cancellation of licenses for factors beyond the control of the licensee. Broadcasting thereby suffers and this is a disservice to the public.

The importance of this issue to the public cannot be overemphasized. The value to the public of a free broadcasting system lies in unintimidated broadcasting and news coverage. Therefore, a stable license renewal procedure is not only beneficial to broadcasters but also is indispensable to the public. The public deserves to have a broadcasting system free from pressure emanating from the threat of irresponsible license challenges.

Failure to take prompt action to enact license renewal legislation will result not only in continued instability in the broadcasting industry but also in a lack of faith in the media by the very community the media serve. Freedom of the press is currently being attacked on all sides. We in the Congress must move to assure that this freedom is preserved and protected.

By Mr. McGEE (by request):

S. 647. A bill to establish a nationwide national public employee merit system. Referred to the Committee on Post Office and Civil Service.

NATIONAL PUBLIC EMPLOYEE MERIT SYSTEM AND REPRESENTATION ACT OF 1973

Mr. McGEE. Mr. President, it has been said that in the year 2000 the 1970's will be referred to as the "decade of the public sector," taking its place along with the 1880's and the 1930's as one of the three most significant periods in labor relations history in our Nation. Today, State and local government employment reflects one of the most dynamic growth patterns in our economy. In 1935 State and local government employment represented approximately 8 percent of the total civilian nonagriculture labor force. Today approximately 12 percent of our total civilian nonagriculture labor force is in the non-Federal employment sector, totally over 13 million persons. Six out of every 10 new jobs created in our economy are in the non-Federal Government sector.

During the recent past, however, this Nation has witnessed the increase of disruption in the public sector. Even as I make these remarks there are hundreds of public servants who are on strike. This Nation witnessed its first strike of public employees in 1835 when a few hundred employees walked off their jobs at the Washington Naval Yard. And all can recall the disruption of mail service when over 200,000 mail clerks and carriers walked off their jobs in 1970.

The States have developed a variety of methods to work with public employee organizations to achieve sound methods of meaningful public employee labor relations. Some are successful, some are less than successful and many are totally inadequate. Consequently, I believe it is incumbent upon the Congress of the United States to explore methods by which we can assist the States in developing meaningful public employee labor relations. By this statement, I in no way suggest that Congress should take over the traditional role of the States, but I do believe we should fully explore the subject.

I am introducing today the Public Employee Merit System and Representation Act of 1973. The purpose of this legislation is to focus attention upon the recognized needs of sound labor principles for the public employee. Realizing the tremendous importance and impact of this segment of our society, I am suggesting by this legislation and we thoroughly examine the means and methods to assist all levels of public employment in establishing tranquil as well as meaningful labor relations. As the national legislative body of this country, I do not believe we can afford to do less.

Mr. President, I ask unanimous consent that a copy of this bill be printed in its entirety at this point in the RECORD.

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

S. 647

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "National Public Employee Merit System and Representation Act of 1973".

DECLARATION OF POLICY

SEC. 2. (a) It is the policy of the United States that public employees be selected, promoted and retained on the basis of merit and fitness without regard to sex, race, religion or political or organizational affiliation, and that they be afforded the rights to which all employees working in a free, democratic society are entitled.

(b) The failure by some public employers to establish and maintain merit systems, the

denial by some public employers of the right of public employees to form, join, and participate in employee organizations of their own choosing, and the refusal by some public employers to adopt laws and procedures for employee representation deprive public employees of the effective exercise of rights guaranteed under the Constitution, deprive the public and employees of a fair and efficient government service, and also leads to strikes and other forms of strife and unrest with the consequent effect of obstructing the flow of commerce thereby denying the right of citizens of the United States to exercise rights protected by the Constitution and interfering with the normal and necessary operations of government.

(c) Experience in public personnel administration has proven that the constitutional rights of employees, and particularly the disadvantaged, are better protected and their civil rights enhanced by providing opportunities for appointment, advancement, and protection of employment through merit systems.

(d) It also has been proven that protection by law of the rights of employees to form, join, and participate in employee organizations of their choice and to bargain collectively protects commerce and the public interest therein from injury, impairment or interruption, including commerce among the States; safeguards rights guaranteed by the Constitution; and promotes the flow of commerce by removing recognized sources of strife and unrest. Protection of these employee rights encourages practices fundamental to the peaceful adjustment of employment relations disputes and fosters democratic relationships between public employers and employees.

(e) It is further declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce among the States, to mitigate and eliminate these obstructions when they occur, and to protect the effective exercise of rights guaranteed by the United States Constitution by promoting the establishment and maintenance of merit systems of personnel administration at all levels of government, and providing for the positive participation of public employees in the formulation and implementation of personnel policies and procedures through collective bargaining and other forms of employee representation.

DEFINITIONS

SEC. 3. When used in this Act, the term—

(1) "public employer" means each State, and each political subdivision thereof, including but not limited to, any town, city, county, borough, district, public or quasi-public corporation, or other government authority or public agency established by State or local law;

(2) "public employee" means any individual employed by a public employer except (A) individuals employed by the legislative or judicial branch of a public employer, (B) officials elected to office, and (C) officials appointed by the chief executive officer of a public employer who determine policies to be pursued by such employer in such employer's relations with other public employers or with the government of the United States or in the administration of State and local laws;

(3) "employee organization" means an organization the membership of which is composed of public employees and which has as one of its primary purposes the representation of such employees in their dealings with public employers concerning grievances, labor disputes, wages, hours of employment, and other terms and conditions of employment;

(4) "Commission" means the National Public Employee Relations Commission;

(5) "collective bargaining" means the mutual obligation of a public employer and the representative of an employee organization (which is recognized for the purpose of collective bargaining) when in disagreement over employment conditions, employer-employee relations (including questions concerning wages and hours of work), or any other terms and conditions of employment to personally meet and through the free exchange of information, opinions, and proposals to endeavor to reach agreement on matters in dispute in good faith within a reasonable time and to execute, upon the request of either party, a written contract incorporating any agreement reached, but such obligation shall not compel either party to agree to any proposal or to make any concession;

(6) "tenure" means the granting of permanent employment status by a public employer to a teacher; and

(7) "State" means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

RIGHTS OF PUBLIC EMPLOYEES

SEC. 4. Each public employee has the right of self-organization and to engage in collective bargaining through representatives of his choice free from interference, restraint, or coercion, and the right to refrain from any or all of such activities.

EMPLOYMENT STANDARDS

SEC. 5. (a) For the purpose of carrying out the provisions of this Act and as a condition of eligibility to receive any funds from the Federal Government which may be used to finance any program conducted in a State, each State shall establish a public personnel system which shall be in effect and applicable to each public employer within such State and which shall—

(1) provide, in the case of public employees, that permanent appointments, promotions, and retention in positions be made exclusively on the basis of merit, fitness, and efficiency, without regard to sex, race, religion or political or organizational affiliation;

(2) provide that the right of each public employee to freely join or not join and be represented by an employee organization be guaranteed;

(3) provide that the right of an employee organization to represent its membership in determining terms and conditions of employment be recognized;

(4) provide (A) that each public employer shall adopt procedures for collective bargaining which shall include provisions for the adjudication of grievances and guarantee to public employees the right of collective bargaining and (B) procedures for the presentation and consideration of petitions from public employees;

(5) provide that each public employer will provide reasonable assistance to employee organizations including withholding of employee organization membership dues;

(6) provide for the establishment or designation of one State agency which shall be responsible for public employee relations and which shall (A) have the power to hold hearings and issue subpoenas, and (B) establish appropriate procedures to resolve recognition and representation disputes, to assure adherence to the law by all parties to such disputes, and to furnish the means of settling controversies arising out of unfair labor practice charges or negotiation impasses; and

(7) provide for the establishment of (A) a grievance procedure under which a public employee who has in any manner been adversely affected in his employment by an action or failure of action by a public employer, a supervisor, or another public employee shall be entitled to a fair hearing, (B) a tenure system under which a teacher employed by a public employer may be granted permanent employment status, (C) a procedure for providing the opportunity for a fair hearing before any public employee may be demoted, suspended or dismissed, or denied or deprived of tenure or status, and (D) a means for protecting the rights guaranteed public employees under section 4 of this Act and for resolving charges concerning unfair labor practices.

(b) (1) In order to promote uniform and effective public personnel administration and to facilitate the administration of Federal grant-in-aid programs and projects undertaken by public employers and as a condition of receiving such aid and assistance, each public employer shall, by July 1, 1975, adopt a program complying with the standards set forth in subsection (a), or shall give satisfactory assurance to the Commission established under section 7 of this Act that the public employer will conform to such standards.

(2) The Commission, upon finding that any public employer is not complying with the requirements of subsection (a), may order any such public employer to establish a public personnel system in accordance with subsection (a).

(3) Upon a finding that any order issued under paragraph (2) has not been implemented, the Commission may direct the suspension of any payment otherwise payable under the provisions of any Federal program to such employer and shall notify each department, agency, or instrumentality of the Federal Government from which such payment would be received of its action.

(4) Notwithstanding any other provision of law, each department, agency, or instrumentality of the Federal Government shall, upon receipt of any order issued under the provisions of this subsection, suspend the payment of any funds which are directed to be suspended by such order and otherwise comply with the terms of such order.

UNFAIR LABOR PRACTICES

SEC. 6 (a) It shall be an unfair labor practice for a public employer—

(1) to interfere with, restrain or coerce public employees in the exercise of the rights guaranteed under section 4 of this Act;

(2) to dominate, interfere or assist in the formation or administration of any employee organization;

(3) to encourage or discourage membership in any employee organization through use of discriminatory practices with respect to hiring, granting tenure, or deciding any other condition or term of employment;

(4) to discharge or otherwise discriminate against a public employee because he has filed a complaint, affidavit, petition or given any information or testimony regarding his employment;

(5) to refuse to bargain collectively in good faith; or

(6) to fail to comply with the policies and standards of this Act.

(B) It shall be an unfair labor practice for an employee organization or its agents—

(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed by section 4 of this Act, but this paragraph shall not affect the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) a public employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(2) to cause or attempt to cause a public employer to discriminate against a public employee in violation of subsection (a) (3) or to discriminate against a public employee with respect to whom membership in such organization has been denied or terminated on a basis other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership; or

(3) to refuse to bargain collective in good faith with a public employer.

ESTABLISHMENT OF COMMISSION

SEC. 7. (a)(1) There is hereby established the National Public Employee Relations Commission which shall be responsible for the enforcement of the provisions of this Act. The Commission shall be composed of five members appointed by the President, by and with the advice and consent of the Senate. Each member of the Commission shall receive compensation at the rate prescribed by section 5314, title 5, United States Code, for executive officers of level III. The members of the Commission shall not engage in any other business, vocation, or employment during the term of their appointment.

(2) Each of the original five members of the Commission shall be appointed for terms of one, two, three, four, and five years respectively, as determined by the President, but the term of office of each member appointed thereafter shall be five years, except that any individual appointed to fill a vacancy on the Commission shall be appointed only for the unexpired term of the vacating member.

(3) Any member of the Commission may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(4) Any vacancy in the membership of the Commission shall not affect its powers and shall be filled in the same manner as the original appointment was made.

(5) The Chairman of the Commission shall be designated by the President.

(6) Three members of the Commission shall constitute a quorum.

(b)(1) For the purpose of conducting hearings and investigations, the Commission, or its duly authorized agent, shall at all reasonable times have access to, for the purpose of examination, and the right to copy, any evidence in the possession or control of any person being investigated or proceeded against if such evidence relates to any matter under investigation or in question. The Commission, or any member thereof, shall upon application of any party to such proceedings, issue to such party subpenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application. Within five days after the service of a subpena on any person requiring the production of any evidence in his possession or under his control, such person may petition the Commission to revoke, and the Commission shall revoke, such subpena if, in its opinion, the evidence required to be produced does not relate to any matter under investigation, or to any matter in question in such proceedings, or if, in its opinion, such subpena does not describe with sufficient particularity the evidence required to be produced. Any person may appeal the Commission's revocation of a subpena to any district court of the United States or the United States courts of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on. Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any territory or possession thereof, at any designated place of hearing.

(2) In the case of contumacy or refusal to obey a subpoena issued to any person, any district court of the United States or courts of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission or any party to a proceeding under this section shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, its member, or agent, to produce evidence if so ordered, or to give testimony relevant to the matter under investigation or in issue; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that any such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(4) Complaints, orders, and other process and papers of the Commission, its member, or agent, may be served either personally or by registered or certified mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed shall be proof of service of the same. Witnesses summoned before the Commission, its member, or agent, shall be paid the same fees and mileage as are paid witnesses in the courts of the United States, and witnesss whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(5) All process of any court to which application may be made under this Act may be served in the judicial district wherein the defendant or other person required to be served resides or may be found.

(6) The several departments and agencies of public employers and employee organizations shall furnish the Commission, upon its request, all records, papers, and information in their possession relating to any matter before the Commission.

(7) Any person who shall willfully resist, prevent, impede, or interfere with any member of the Commission or any of its agents or agencies in the performance of duties pursuant to this Act shall, upon conviction, be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or both.

(c) The Commission shall adopt, promulgate, amend, or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this Act. Public hearings shall be held by the Commission on any proposed rule or regulation of general applicability designed to implement, interpret or prescribe policy, procedure, or practice requirements under the provisions of this Act and on any proposed change to any such rule or regulation. Reasonable notice shall be given prior to such hearings, which shall include the time, place, and nature of such hearing and also the terms or substance of the proposed rule or regulation or the proposed changes to such rule or regulation.

(d) (1) There shall be a General Counsel of the Commission who shall be appointed by the Commission and who shall receive compensation at the rate prescribed by section 5315, title 5, United States Code, for executive officers of level V. The General Counsel shall be authorized to investigate alleged violations of this Act, to file and prosecute complaints and represent the Commission in all legal proceedings. The General Counsel shall exercise such other powers as the Commission may prescribe.

(2) All expenses of the Commission, including all necessary travel and subsistence expenses incurred by its members or employees, shall be paid after approval by the Commission or any individual designated for that purpose by the Commission.

(3) The Commission may hire such employees as it deems necessary for the proper performance of its duties.

(e) The Commission shall at the close of each fiscal year submit a report in writing to the Congress and to the President stating the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and other individuals under the supervision of the Commission, and an account of all moneys disbursed.

(f) The principal office of the Commission shall be in the District of Columbia, but the Commission may meet and exercise any or all of its powers at any other place.

MERIT SYSTEM

SEC. 8. Nothing in this Act or in any proceeding adopted hereunder shall be construed to require public employers to enter into agreements under which appointments and promotions in the public service shall be made on any basis other than merit, fitness and efficiency and without regard to sex, race, religion or political or organizational affiliation.

SEVERABILITY

SEC. 9. If any provision of this Act, or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

COMPENSATION OF COMMISSION MEMBERS

SEC. 10. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(59) Members, National Public Employee Relations Commission (5).".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(97) General Counsel of the National Public Employee Relations Commission.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 12. The provisions of this Act shall become effective 90 days after the date of enactment.

By Mr. McGEE (for himself, Mr. MONDALE, Mr. WILLIAMS, and Mr. EASTLAND):

S. 648. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes. Referred to the Committee on Labor and Public Welfare.

NATIONAL DIABETES ACT OF 1973

Mr. McGEE. Mr. President, today my colleague from New Jersey (Mr. WILLIAMS) and I are introducing the National Diabetes Act of 1973. I am especially pleased to have Senator WILLIAMS join me in sponsoring this legislation. As you know, he is chairman of the Committee on Labor and Public Welfare and the ranking member on the Health Subcommittee. I am also happy to announce

that Senator EASTLAND, chairman of the Judiciary Committee, has joined as a sponsor.

The objective of the proposed National Diabetes Act of 1973 is to amend the Public Health Service Act in order to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases so that a national attack on diabetes mellitus may be undertaken.

Approximately 5 million Americans now have diabetes. Its known prevalence has doubled in the past decade. It is the fifth leading cause of death from disease. It is the second most-common cause of new cases of blindness. Complications of diabetes frequently lead to other serious health problems including heart attacks, strokes, gangrene of the extremities, kidney failure, and impaired nerve function. Uncontrolled diabetes significantly decreases life expectancy, and limits the ability of the afflicted individuals to work and earn wages. It has been particularly difficult to manage the disease satisfactorily in many children and adolescents. High quality health care has usually not been available to those who have diabetes and who are economically or educationally deprived.

The citizens of the United States are entitled to a full understanding of the nature and impact of diabetes. They should know that present methods of treating diabetes are associated with many difficult and unsolved problems that occur during the course of the disease. The attainment of better methods of diagnosis and treatment of diabetes mellitus deserves the highest priority. The greatest potential for advancement against diabetes lies in the National Institute of Arthritis, Metabolism, and Digestive Diseases, and in the coordination of its research programs and those related to diabetes of other institutes of the National Institutes of Health. Thus the National Diabetes Act of 1973 would expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases—NIAMDD—by adding four new sections to section 3, part D of title 4 of the Public Health Service Act.

The first section would set up a national diabetes program under the Director of NIAMDD with the advice of that Institute's National Advisory Council. The program would expand, intensify, and coordinate the activities of the Institute respecting diabetes and related endocrine and metabolic diseases, and would coordinate with other research institutes of NIH to the extent that they had responsibilities respecting such diseases. This coordination would involve investigations into the causes, pathologic physiology, prevention, and control of diabetes, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants that are involved. Research into the basic biological mechanisms underlying the abnormal phenomena associated with diabetes would be undertaken. Research into the development, trial, and evaluation of therapeutic modalities and drugs used in the diagnosis, treatment and prevention of diabetes would be carried out.

Programs that would focus and apply technological efforts involving the biological, physical, and engineering sciences in all facets of diabetes would be established. Field studies including large-scale testing, evaluation, and demonstration of preventive, diagnostic, therapeutic, rehabilitative, and control approaches to diabetes would be established. Scientists, including clinicians and educators in the fields and specialties related to diabetes, would be trained so that they may provide leadership in establishing and supervising the previously noted programs. Those so trained would provide in turn professional, public, and patient education related to all aspects of diabetes for the Nation at large.

The plan required by this section would be developed and transmitted to the Congress within 270 days after the effective date. It would set out NIAMDD staff requirements to carry out the program, and it would make recommendations for appropriations for the program. After the end of each calendar year, the Director of the Institute would prepare in consultation with the Council for submission to the President and transmittal to the Congress a report of the activities, progress, and accomplishments under the program during the preceding year and plans for the program during the next 5 years. The Director of the Institute under policies established by the Director of NIH and after consultation with the Council, might, if authorized by the Council, obtain the services of not more than 10 experts or consultants who have scientific or professional qualifications in the field of diabetes.

The second section would establish a diabetes prevention and control program which would cooperate with other Federal health agencies, State, local and regional public health agencies, and nonprofit private health agencies so that diabetes could be diagnosed as soon as possible, prevented when possible, and controlled or treated appropriately in as many patients as possible. The prevention, diagnosis, control, and treatment of the disease in children would be appropriately emphasized.

The third section would provide for the establishment of a minimum of 15 national research and demonstration centers for diabetes. Eventually we envision as many as 50 such centers located geographically across the Nation so as to equally serve and reach all people and areas. These centers would engage in basic and clinical research in the prevention, diagnosis, control, and treatment of diabetes, in the training of individuals to carry out such activities, and in the demonstration of modern methods of preventing, diagnosing, controlling, and treating diabetes to both professional and lay individuals. These centers would be utilized for research, training, and demonstration programs to develop improved methods of detecting individuals with a risk of developing diabetes, and to develop improved methods of intervention against those factors which cause individuals to have a risk of developing diabetes. These centers would develop programs to train highly skilled physicians and allied health professionals in the prevention and control of diabetes.

The Director of NIAMDD under policies established by the Director of NIH and after consultation with the Council would be authorized to enter into cooperative agreements with public and nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening and providing basic operating support for existing or new centers, and to pay for basic or clinical research into, training in, and demonstration of advanced diagnostic, prevention, treatment, and control methods of diabetes. These funds may be used for construction, staffing, and other basic operating costs including such patient care costs as are required for research, training, and demonstration purposes. The support for each center may be for a period not to exceed 5 years. The support, however, may be extended by the Director of NIAMDD for additional periods of not more than 5 years each after review by an appropriate scientific review group established by the Director.

It has been estimated that diabetes-related sickness absenteeism, disability, and lifetime productivity losses due to premature death result in the loss of about $2 billion in earnings each year. When the National Diabetes Act of 1973 is enacted into law, it will be possible for the first time to develop rational medical care systems of high quality for all patients in the United States with diabetes. New knowledge that will be accumulated by research and investigation will make it possible to control the disease more satisfactorily, and may lead to the development of methods that can prevent or cure diabetes. There is every reason to believe that there will be significant decrease in sickness absenteeism, disability, and premature death from diabetes once the National Diabetes Act of 1973 is implemented.

Mr. President, I respectfully urge my colleagues in the Senate to join me in support of this proposal, and I am hopeful that Congress will approve this legislation early in this Session.

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

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

S. 648

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

FINDINGS AND DECLARATION OF PURPOSE

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

(1) that diabetes mellitus is a major health problem in the United States in that it afflicts approximately 5,000,000 Americns;

(2) that it is the fifth leading cause of death from disease, and that it is the second leading cause of new cases of blindness;

(3) that the complications of diabetes mellitus lead to many other serious health problems;

(4) that uncontrolled diabetes significantly decreases life expectancy.

(5) that the citizens of the United States should have a full understanding of the nature of the impact of diabetes mellitus;

(6) that there is convincing evidence that the known prevalence of diabetes mellitus

has increased dramatically in the past decade;

(7) that the present level of knowledge of therapy of diabetes mellitus has not provided solutions to many difficult problems and especially in the delivery of health care to those who are economically and educationally deprived;

(8) that the severity of diabetes mellitus in children and most adolescents is greater than in adults, which in most cases involves greater problems in the management of diabetes mellitus;

(9) that the attainment of better methods of diagnosis and treatment of diabetes mellitus deserves the highest priority; and

(10) that the greatest potential for advancement against diabetes lies in the National Institute of Arthritis, Metabolism, and Digestive Diseases, but advancement against this and related diseases depends not only on the research program of that Institute but also on the research programs of the other research institutes of the National Institutes of Health.

(b) It is the purpose of this Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes.

DIABETES PROGRAMS

SEC. 3. Part D of title IV of the Public Health Service Act is amended by adding after section 434 of such title the following new sections:

"NATIONAL DIABETES PROGRAM

"SEC. 435. (a) (1) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, with the advice of the National Advisory Council of the Institute (hereinafter referred to as the 'Council'), shall develop a plan for a National Diabetes Program (hereinafter in this part referred to as the 'Program'). For the purpose of this part the Program will include and be aided by similar efforts with regard to related endocrine and metabolic diseases and to basic biologic processes and mechanisms, the better understanding of which is essential to solution of the problem of diabetes.

"(2) It is the purpose of the Program to expand, intensify, and coordinate the activities of the Institute respecting diabetes and related endocrine and metabolic diseases. The Program shall be coordinated with the other programs conducted or administered by the research institutes of the National Institutes of Health to the extent that such institutes have responsibility respecting such diseases. The Program shall provide for—

"(A) investigation into the epidemiology, etiology, prevention and control of diabetes, including investigation into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, prevention and control of diabetes;

"(B) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal phenomena associated with diabetes including abnormalities of the skin, gastrointestinal tract, kidneys, eyes, and nervous system. The studies and research shall also include evaluation of influences of other endocrine hormones on the etiology, treatment, and complications of diabetes.

"(C) research into the development, trial, and evaluation of techniques and drugs used in, and approaches to, the diagnosis, treatment and prevention of diabetes;

"(D) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical and engineering science to all facets of diabetes;

"(E) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation and demonstration of preventive, diagnostic, therapeutic, rehabilitative and control approaches to diabetes;

"(F) the education and training of scientists, clinicians, and educators in the fields and specialties requisite to the conduct of programs respecting diabetes; and

"(G) patient, public and professional education relating to all aspects of diabetes.

"(b) (1) The plan required by subsection (a) of this section shall be developed within two hundred and seventy days after the effective date of this section, and be transmitted promptly to the Congress. Such plan shall set out the staff requirements and resources necessary for the National Institute of Arthritis, Metabolism, and Digestive Diseases to carry out the Program and recommendations for adequate funding levels for the Program.

"(2) In the development of the plan, attention will be given to means to assure continued production of fundamental new knowledge which would form the basis of future advances in the understanding, treatment, and control of diabetes. Specific recommendations will be made on the proportion of the effort devoted to the production of new knowledge which would be expected to occur as the result of individual projects undertaken in the nation's and the world's biomedical research laboratories generally and that which would be anticipated as arising from the research conducted in the centers under Section 437.

"(3) The Director of that Institute shall as soon as practicable after the end of each calendar year prepare in consultation with the Council and submit to the President for transmittal to the Congress a report on the activities, progress and accomplishments under the Program during the preceding year and a plan for the Program for the succeeding five-year period.

"(c) In carrying out the Program, the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, under policies established by the Director of the National Institutes of Health and after consultation with the Council and without regard to any other provisions of this Act may, if authorized by the Council, obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than ten experts or consultants who have scientific or professional qualifications.

"DIABETES PREVENTION AND CONTROL PROGRAM

"SEC. 436. (a) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, under policies established by the Director of the National Institutes of Health, and after consultation with the Council, shall establish programs as necessary for cooperation with other Federal health agencies, State, local and regional public health agencies, and nonprofit private health agencies, in the prevention, control, and evaluation of diagnosis and treatment of diabetes, appropriately emphasizing the prevention, control, diagnosis and treatment of such diseases in children.

"(b) There is authorized to be appropriated to carry out this section $25,000,000 for the fiscal year ending June 30, 1974, $35,000,000 for the fiscal year ending June 30, 1975, and $45,000,000 for the fiscal year ending June 30, 1976.

"NATIONAL RESEARCH AND DEMONSTRATION CENTERS FOR DIABETES

"SEC. 437. (a) (1) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases may provide for the development of not less than 15 centers for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention and treatment methods for diabetes.

"(2) The centers developed under paragraph (1) of this subsection shall, in addition to being used for research, training, and demonstration projects, be available for the following prevention program for diabetes:

"(A) programs to develop improved methods of detecting individuals with a risk of developing diabetes;

"(B) programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing diabetes; and

"(C) programs to develop health professions and allied health professions personnel highly skilled in the prevention and control of diabetes.

"(3) (a) Centers developed under this subsection may be supported under subsection (b) or under any other applicable provision of law.

"(b) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, under policies established by the Director of the National Institutes of Health and after consultation with the Council, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for, existing or new centers (including centers established under subsection (a)) for basic or clinical research into, training in, and demonstration of, advanced diagnostic, prevention, treatment and control methods for diabetes. Funds paid to centers under cooperative agreements under this subsection may be used for—

"(1) construction, notwithstanding section 405;

"(2) staffing and other basic operating costs, including such patient care costs as are required for research;

"(3) training, including training for allied health professions personnel; and

"(4) demonstration purposes.

Support of a center under this subsection may be for a period of not to exceed five years and may be extended by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases for additional periods of not more than five years each, after review of the operations of the center by a scientific review group established by the Director. As used in this section, the term 'construction' does not include the acquisition of land.

"INTERAGENCY TECHNICAL COMMITTEE

"SEC. 438. (a) The Secretary shall establish an Interagency Technical Committee on Diabetes which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to diabetes to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(b) The Director of the Institute shall serve as Chairman of the Committee and the Committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary."

CONFORMING AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 4. Section 431 (a) of the Public Health Service Act is amended by striking out "and metabolism" and inserting in lieu thereof "diabetes and metabolic diseases."

By Mr. JAVITS (for himself, Mr. ABOUREZK, Mr. BROCK, Mr. BROOKE, Mr. CASE, Mr. CRANS-

TON, Mr. FONG, Mr. GRAVEL, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. KENNEDY, Mr. McGOVERN, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. RIBICOFF, Mr. ROTH, Mr. SCOTT of Pennsylvania, Mr. TUNNEY, and Mr. WILLIAMS):

S. 649. A bill to provide for the use of certain funds to promote scholarly, cultural, and artistic activities between Japan and the United States, and for other purposes.

Referred to the Committee on Foreign Relations.

JAPAN-UNITED STATES FRIENDSHIP ACT

Mr. JAVITS. Mr. President, as we all remember, just 28 years ago U.S. relations with Japan were in a state of total war and were characterized by distrust and enmity. Today, Japan is a close ally, our second biggest trading partner, and a thriving democracy. Through intelligent diplomacy, mutual self-interest, and reciprocal respect, the relationship of 28 years ago has been transformed into a cooperative and mutually beneficial friendship that is unprecedented in East-West relations. Perhaps, the most significant symbol of this new United States-Japan relationship is the Okinawa Reversion Agreement, approved by the Senate on November 10, 1971, by a vote of 84 to 6. This unique relationship grows out of the experiences of the past 20 years and is the foundation for plans and aspirations in Asia for the next 20 years; I believe it must be perpetuated.

Clearly an example of cooperation, mutual respect, understanding, and trust between equals, this agreement effected the return of Okinawa to Japanese administration. The agreement also provides that Japan pay $320 million to the United States, over a period of 5 years, as repayment of the cost to the United States for public utilities and other facilities on the island and now turned over to Japanese administration plus some costs in connection with relocation of American facilities and employment of indigenous labor.

Therefore, today I reintroduce for myself and Senators ABOUREZK, BROCK, BROOKE, CASE, CRANSTON, FONG, GRAVEL, HATFIELD, HUGHES, HUMPHREY, INOUYE, JACKSON, KENNEDY, McGOVERN, MOSS, MUSKIE, NELSON, RIBICOFF, ROTH, SCOTT of Pennsylvania, TUNNEY, and WILLIAMS, the Japan-United States Friendship Act. The bill sets aside 10 percent of the payments to be received from Japan in connection with the reversion of Okinawa to establish a fund to promote scholarly, cultural, and artistic interchange between Japan and the United States. It authorizes the appropriation of $32 million, from the $100 million already paid to the U.S. Treasury as specified by the Reversion Agreement. The text of the bill, as compared to that originally introduced on August 2, 1972, has undergone some nonsubstantive revisions in the interests of clarity and readability. Identical legislation is being introduced in the House today by a distinguished member of the House Committee on Education and Labor, Representative MARVIN L. ESCH of Michigan and 13 others.

The $32 million authorized to be appropriated by the Japanese-American Friendship Act would create a Japan-United States Friendship Trust Fund. These funds would draw interest at the average rate of Federal obligation for the preceding 2 years. This interest, gifts and donations, and up to 5 percent of the principal would be available for expenditure annually for the following purposes:

First, support for studies, including language studies, in institutions of higher learning or scholarly research in Japan and the United States, designed to foster mutual understanding between Japan and the United States;

Second, support for major collections of Japanese books and libraries at American colleges and universities located throughout the United States;

Third, support for programs in the arts in association with institutions of higher education in Japan and the United States;

Fourth, support for fellowships and scholarships at the undergraduate, graduate, and faculty levels in Japan and the United States in accord with the purposes of this act;

Fifth, support for visiting professors and lecturers at colleges and universities in Japan and the United States; and

Sixth, support for other Japan-United States exchanges consistent with the purposes of this act.

To administer these programs, the bill establishes a Japan-United States Friendship Commission, composed of the Secretary of State, the Secretary of Health, Education, and Welfare, and six public members, appointed by the President and to serve terms of 3 years on a rotating, staggered basis. The six public members would be selected from persons who are:

First, conversant with Japan-United States relations, or

Second, generally recognized experts in the field of education, the arts, and the humanities, or

Third, representative of the general public.

The Chairmen of the National Endowment for the Arts and the National Endowment for the Humanities would serve as ex-officio, nonvoting members.

To administer the programs enumerated above, the Japan-United States Friendship Commission is empowered to expend annually, at its own discretion, the trust fund's annual and accumulated interest and up to 5 percent of the principal, any gifts and donations which the Commission is authorized to receive may be either spent upon receipt or added to the principal of the trust fund. The Commission is required to submit to the President and to the Congress an annual report of its activities, together with such recommendations as the Commission thinks appropriate.

There is an important historical precedent for this kind of use of funds. The funds which were payable to the United States by the Government of China under the Boxer Indemnity Fund were set aside for educational purposes. While the circumstances of payment in this case are very different, the object in mind respecting the use of the funds receivable is analogous: to strengthen the bonds of friendship and understanding with a great nation of Asia.

This legislation is most timely. The "Japanese Miracle" is one of the major developments of the last half of the 20th century. But relatively little is known and understood in detail about the remarkable Japanese society that has achieved such progress. The Japanese language is probably the least known in the United States of any of the world's greatest languages. Japanese art and literature are treasures which remain to be more fully explored by American scholars and by the American public. It is essential to our national interest that we achieve a deeper understanding of Japanese society and culture. This act could make a major difference in this regard. It enjoys broad and enthusiastic support in academic and scholarly circles.

Japanese studies programs presently are available in only 1 percent of all American colleges and universities, have often a low priority, and have suffered considerably thereby. Foundations are withdrawing their support for the most part; as their aid was never intended to be permanent but to get programs off the ground so that the U.S. Government could then step in with financial aid when the programs had proved their worth. However, despite moderate increases in the past 2 years, funds for the Fulbright-Hays exchange programs with Japan are still far below their 1966 peak. In all areas, Federal assistance has not been forthcoming on a scale to fulfill even minimum needs.

Japan has demonstrated its willingness to bear its share of the burden to bridge these gaps in public understanding by the establishment of the Japan Foundation to expand cultural and educational exchanges with the United States and Southeast Asia. This Foundation, formed by the Japanese Government in October 1972, is scheduled to eventually have an endowment of $320 million.

The obvious need for the United States to expand Japanese studies here and to enable more extensive cultural, artistic, and scholarly exchanges with the Japanese, over and above present levels, argues strongly for prompt congressional action. Other considerations at this significant juncture in United States-Japan relations ony reinforce this contention.

Relations between Japan and the United States have reached a psychological watershed of great importance. The style of the relationship forged during the occupation, which characterized Japan as the younger brother needy of tutelage, has long since been rendered obsolete and has been superseded in government-to-government relations and has been replaced, most appropriately, by a true partnership. Japan has emerged as the second strongest economic power in the free world. This is a

new reality which must be accommodated, especially in our nonofficial relationships and perceptions as well.

The United States may well be in a mood of retrenchment and diversion to domestic troubles, in the wake of our tragic experience in Vietnam. Sensitivity in both Washington and Tokyo are thus perhaps more exposed to irritation than at any time in the past 20 years. Tact and hardheadedness are required in equal measure, if there is to be the kind of creative United States-Japan relationship which, in concert with other multilateral efforts, could inaugurate an era of unprecedented growth, prosperity, and mutual understanding and communication.

The overwhelmingly favorable response to the Japan-United States Friendship Act since its original introduction in August 1972 is most encouraging. The original bill enjoyed 21 cosponsors in the Senate and 22 in the House.

Also highly significant is the support the bill has evoked in the academic community. I have received numerous expressions of support from scholars throughout the country. Indeed, the dean of American Japanologists, Edwin O. Reischauer, in addition to Prof. Robert E. Ward of the University of Michigan, who has worked closely with myself and Congressman ESCH on this legislation, and several of the Nation's other more prominent scholars of Asia have written to the executive branch expressing strong support for this legislation and urging expeditious action. I will include this correspondence at the conclusion of my remarks.

Realizing the need for increased contacts with Japan, President Nixon has expressed his intention to expand cultural, scholarly, and artistic contacts with Japan in the communiques following his January 1972 meeting with former Prime Minister Sato and the Nixon-Tanaka summit of August 1972 in Hawaii. In my judgment, the Japan-United States Friendship Act will give impetus to the President's intention.

The Japan-United States Friendship Act has also attracted the favorable attention of the newspaper media both here and in Japan; comments have appeared in the Washington Post and several prominent Japanese newspapers. I will include these also at the end of my remarks.

Therefore, Mr. President, in light of the clear need for the Japan-United States Friendship Act and the strong support this legislation is privileged to receive from the Senate, the academic community, the news media, and—in principle—President Nixon, in my judgment, we are acting at a fortuitous time. I am very hopeful that this bill will have rather quick action on the part of the Senate and the House. The present state of our relationship with Japan deserves no less.

I ask unanimous consent that the text of the Japan-United States Friendship Act and correspondence and articles concerning it be printed in the RECORD.

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

S. 649

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Japan-United States Friendship Act."

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) the evolution of the relationship between Japan and the United States from wartime bitterness to peacetime friendship and partnership is one of the most significant developments of the postwar period;

(a) the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo on June 19, 1970, is a major achievement and symbol of the new relationship between the United States and Japan; and

(3) the continuation of close United States Japan friendship and cooperation will make a vital contribution to the prospects for peace, prosperity, and security in Asia and the world.

(b) It is therefore the purpose of this Act to provide for the use of an amount equal to a part of the sums to be paid by Japan to the United States in connection with the reversion of Okinawa to Japanese administration to aid education and culture at the highest level in order to enhance reciprocal people to people understanding and to support the close friendship and mutuality of interests between the United States and Japan.

ESTABLISHMENT OF THE FUND; EXPENDITURES

SEC. 3. (a) There is established in the Treasury of the United States a trust fund to be known as the Japan-United States Friendship Trust Fund (hereafter referred to as the "Fund".)

(b) Amounts in the Fund shall be used for the promotion of scholarly, cultural, and artistic activities between Japan and the United States, including—

(1) support for studies, including language studies, in institutions of higher education or scholarly research in Japan and the United States, designed to foster mutual understanding between Japan and the United States;

(2) support for major collections of Japanese books and libraries at United States colleges and universities located throughout the United States;

(3) support for programs in the arts in association with institutions of higher education in Japan and the United States;

(4) support for fellowships and scholarships at the undergraduate, graduate, and faculty levels in Japan and the United States in accord with the purposes of this Act;

(5) support for visiting professors and lecturers at colleges and universities in Japan and the United States; and

(6) support for other Japan-United States exchanges consistent with the purposes of this Act.

(c) Amounts in the Fund may also be used to pay administrative expenses of the Japan-United States Friendship Commission, established by Section 4 of this Act, as directed by that Commission.

(d) There is authorized to be appropriated to the Fund, for fiscal year 1974, an amount equal to 10 percent of the funds paid to the United States pursuant to the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 19, 1970. Any unappropriated portion of the amount authorized to be appropriated for such fiscal year may be appropriated in any subsequent fiscal year.

THE JAPAN-UNITED STATES FRIENDSHIP COMMISSION

SEC. 4. (a) There is established a commission to be known as the Japan-United States Friendship Commission (hereafter referred to as the "Commission"). The Commission shall be composed of—

(1) the Secretary of State;

(2) the Secretary of Health, Education, and Welfare;

(3) six members appointed by the President from among individuals who are (A) conversant with Japan-United States relations; (B) expert in the field of education, the arts, or the humanities; or (C) representative of the general public;

(4) the Chairman of the National Endowment for the Arts, who shall have no vote; and

(5) the Chairman of the National Endowment for the Humanities, who shall have no vote.

(b) The term of office of each of the six public members of the Commission appointed under clause (3) of subsection (a) of this section shall be three years, except that (1) such members first appointed shall serve as designated by the President, two for terms of three years, two for terms of two years, and two for terms of one year, and (2) any member appointed under such clause to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(c) Members of the Commission who are not regular, full-time employees of the United States shall, while serving on business of the Commission, be entitled to receive compensation at rates fixed by the President, but not exceeding the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(d) The President shall appoint the Chairman of the Commission. A majority of the members of the Commission shall constitute a quorum. The Commission shall meet at least twice in each year.

FUNCTIONS OF THE COMMISSION

SEC. 5. The Commission is authorized to—

(1) develop and carry out programs of public or private institutions for the promotion of scholarly, cultural, and artistic activities by Japan and the United States consistent with the provisions of section 3(b) of this Act;

(2) make grants to carry out such programs; and

(3) submit to the President and to the Congress an annual report of its activities under this Act together with such recommendations as the Commission determines appropriate.

ADMINISTRATIVE PROVISIONS

SEC. 6. In order to carry out its functions under this Act, the Commission is authorized to—

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of this Act; and to use, sell, or otherwise dispose of such property (including transfer to the Fund) for the purpose of carrying out the purposes of this Act, and any such donation shall be exempt from any Federal income, state, or gift tax;

(3) in the discretion of the Commission, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Commission with a condition or restriction, including a condition that the Commission use other funds of the Commission for the purposes of the gift, and any such donation shall be exempt from any Federal income, state, or gift tax;

(4) direct the Secretary of the Treasury to make expenditure of the income of the Fund and not to exceed 5 percent of the an-

nual principal of the Fund for the purposes of this Act, including the payment of Commission expenses if needed;

(5) appoint an Executive Director, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, who shall be compensated at the rate provided for a GS–18 of the General Schedule of such title;

(6) appoint and fix compensation of such additional personnel as may be necessary to carry out the provisions of this Act;

(7) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code;

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

(9) enter into contracts, grants, or other arrangements, or modifications thereof to carry out the provisions of this Act, or any other provisions of law relating to competitive bidding; and

(10) make advances, progress, and other payments which the Commission deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529).

MANAGEMENT OF THE FUND

SEC. 7. (a) The Fund shall consist of—

(1) amounts appropriated under section 3(d) of this Act;

(2) any other amounts received by the Fund by way of gifts and donations; and

(3) interest and proceeds credited to it under subsection (b) of this section.

(b) It shall be the duty of the Secretary of the Treasury (hereafter referred to as the "Secretary") to invest such portion of the Fund as it not, in the judgment of the Commission, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purposes, the obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States issued during the preceding two years then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(c) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) In accordance with section 6(4) of this Act, the Secretary shall pay out of the Fund such accounts, including expenses of the Commission, as the Commission considers necessary to carry out the provisions of this Act.

UNIVERSITY OF MICHIGAN,
CENTER FOR JAPANESE STUDIES,
Ann Arbor, Mich., August 7, 1972.

Hon. MARSHALL GREEN,
Assistant Secretary, Bureau of East Asian and Pacific Affairs, Department of State, Washington, D.C.

DEAR MR. SECRETARY: We are writing to bring to your attention a Bill entitled "The Japanese-American Friendship Act of 1972" (House Bill #HR16152, Senate Bill #S3872). I have attached the text of the Bill and a statement made by Senator Jacob Javits at the time the Bill was introduced (Congressional Record, August 2, 1972). The purpose of the Bill is to set aside a small portion of the $320,000,000 being paid the United States Government in dollars by the Japanese Government in connection with the return of Okinawa to Japanese administrative control for the purpose of financing scholarly and cultural relations with Japan. In our estimation the Bill is of very substantial long-term importance to both our national interest and to the future of Japanese Studies in this country. We would like to solicit any assistance you may be able to give with regard to this Bill.

Our judgment of the importance of this Bill rests upon the following considerations:

1. Of all our external relations in the Pacific and Asian areas, those with Japan are by long odds the most important. In the present absorbedness of the press and public with the dramatic but still unpredictable negotiations with Peking there is a serious danger that we may lose sight of this basic fact. This is almost as true at the university and cultural relations level as it is at the public level.

2. Our relations with Japan have been going through a period of serious strain, the ultimate outcome of which is most difficult to predict with any reasonable degree of certainty. The exchanges at San Clemente, while undoubtedly helpful, have not really alleviated a widespread concern in Japan over the basic reliability of the American security guarantees and the long-term policy implications of our approaches to Peking. The present and emerging economic difficulties between Japan and the United States are of at least equal seriousness and they, too, have by no means been resolved.

3. This situation coincides with a period of financial stringency where the field of Japanese Studies in the United States is concerned that is unprecedented in post-World War II times. There is a serious danger that this small but important source of specialized training and expertise for critical and growing national needs in the fields of higher and secondary education, government, and business will be seriously endangered at just the point in United States relations where its skills are most needed.

4. The Japanese Government, long laggard in this respect, has recently recognized the imminence of this danger and the importance of these circumstances by establishing the "Japan Foundation" to finance expanded scholarly and cultural relations between Japan and other nations, in particular the United States and Southeast Asia. The present size of this fund is slightly more than $16,600,000 (five billion yen) at the current exchange rate. The Japanese Foreign Ministry has officially stated that the fund will be doubled to $33,200,000 (ten billion yen) in fiscal 1973 and in several years expanded to a size of $100,000,000. The income from this fund will be devoted to the support of scholarly and cultural exchanges abroad, of collaborative research between Japanese and foreign scholars, and of needful programs of Japanese Studies in foreign countries, especially in the United States. Our Inter-University Center for Japanese Language Studies in Tokyo—an invaluable advanced language training facility for American students operated by a consortium of eleven American universities which has for the past two years hovered on the bring of financial collapse—has already been officially informed that the Japanese Ministry of Foreign Affairs will contribute $58,000 towards its support in 1972–73, a sum that, incidentally, is substantially larger than that provided by our own Office of Education. The Japanese Government intends to continue this support on an annual basis.

5. We recall that the President of the United States and the Prime Minister of Japan in their joint statement issued at San Clemente on January 7, 1972: ". . . reaffirmed the basic view that Japan and the United States . . . would cooperate closely with each other in all areas such as the political, cultural, economic. scientific and technological fields to achieve the common goal of maintaining and promoting peace and prosperity of the world and the well-being of their countrymen . . . they also agreed that steps be taken to increase cultural exchanges and in this regard the President welcomed the explanation given on the contemplated establishment of a Japanese cultural exchange program."

Against this background this seems to me an unusually propitious time at which to set aside in a special fund an appropriate portion of the $320,000,000 being paid by Japan into the United States Treasury over a five-year period beginning in May 1972 as a result of the retrocession of administrative control over Okinawa. This sum represents repayment to the United States Government for the cost of public utilities and other facilities installed on the island at our expense and now being turned over to the Japanese plus some costs in connection with relocation of American facilities, employment of indigenous labor, and a few other matters. The funds revert to the Treasury of the United States and, we understand, can be made available for this or other purposes only by Congressional authorization and appropriation.

In our estimation this sum could best be used for purposes such as the following:

1. Continuing support of the Inter-University Center for Japanese Language Studies in Tokyo, now operated by a consortium of eleven American universities.

2. Supplementary support for the operating expenses of a selection of programs of Japanese Studies in the United States that constitute in effect "national resources" in this field. The universities concerned would continue to bear the basic salaries and administrative costs involved.

3. Supplementary support on similar terms for a regionally-distributed selection of major collections of Japanese-language reference, research, and teaching materials.

4. Funds to facilitate means to enable such "national resource programs" to make their skills and resources available on a regional basis to smaller universities, junior and community colleges, and secondary schools interested in adding a non-Western element to their curricula or providing training for their staff members along these lines. Similar programs might also be developed to assist American businesses seriously involved in the Japanese market where the advanced training of personnel to be stationed in Japan is concerned. Given the present and future scale of our business relations with Japan, there will certainly be increasing needs for training in this area.

5. Support for programs of fellowships and scholarships at the undergraduate, graduate, faculty and professional levels related to training and research programs on Japan. These should be tenable either in this country or in Japan.

6. Support for a program intended to increase the flow of visiting Japanese professors and lecturers to American universities and schools and send American counterparts to Japan.

We feel that enactment of this Bill would serve several larger purposes. It would preserve and expand the capacity of our universities to produce well-trained specialists and reliable information in all fields of Japanese Studies at a time when this capacity has been seriously endangered by cutbacks in local, foundation, and federal support. It would at the same time provide a means for financing programs intended to spread knowledge and understanding of Japan to other neglected levels of higher and secondary education far more extensively than has heretofore been the case. Given the present importance of Japan to this country in a political, economic, and cultural sense and the very high degree of probability that these relationships will expand rather than contract in the future, these seem to us to be considerations of basic concern to the quality of our future national relations with Japan.

It also seems to us that after a prolonged period of obduracy and poor or mediocre performance in many of their relations with the United States, the Japanese Government in a number of cases has recently become remarkably forthcoming and helpful sometimes in circumstances affording considerable temptation to act otherwise. The establishment of the Japan Foundation, with a distinct bias in favor of the American interest, is but the latest example of such a changed disposition.

Under these circumstances would it not be both useful and appropriate for the United States Government to extend positive recognition of the fact that there has been a significant change for the better in Japanese policy and that we understand and appreciate this fact—particularly if such a gesture can be made on terms that are basically self-financing and do not entail new cost to the Treasury. The "Japanese-American Friendship Act of 1972" constitutes positive recognition of the sort we have in mind. The forthcoming Hawaii Meeting of the President and the new Japanese Prime Minister, Mr. Tanaka, on August 31, 1972, might well provide a most appropriate occasion for announcing to the Japanese, the Administration's intention to support legislation along this bias.

We are most grateful for your attention and for any assistance you may be able to give.

Sincerely yours,

Rodney E. Armstrong, Executive Director, Japan Society, Inc.
George Beckman, Dean, College of Letters and Science, University of Washington.
John W. Hall, Professor of History and Chairman, Department of East Asian Languages and Literatures, Yale University.
James W. Morley, Professor of Political Science and Director, East Asian Institute, Columbia University.
Edwin O. Reischauer, University Professor, Harvard.
Robert A. Scalapino, Professor of Political Science, University of California, Berkeley.
Robert E. Ward, Professor of Political Science and Director, Center for Japanese Studies, University of Michigan.

[From the Washington Post, Oct. 11, 1972]

ON READING THE JAPANESE

This country's relationship with Japan is something of a curiosity. The exchange of trade is now the largest between any two nations in history with the exception of our Canadian trade. Even apart from economic interests, millions of Americans have lived in Japan in the course of the occupation and the cooperative defense that followed. There is a substantial population of Japanese descent in this country. But there are not many Japanese who speak English well and the number of Americans who speak Japanese, other than those who learned it from immigrant parents, is miniscule. If there are few Americans who know the language there are not many more who have any real sense of Japanese culture at all.

The Japanese government inaugurated last week a new fund, the Japanese Foundation, to underwrite exchanges of teachers and scholars, as well as supporting the Japanese Language Center in Tokyo and Japanese studies in American universities. This welcome initiative is analagous to the Fulbright fellowship program, one of the wisest investments that this country ever made. The Japanese, an island people whose national life has never been easily accessible to foreigners, are to be congratulated for taking this step.

The phrase "international understanding" usually connotes a rather sentimental and unfocused good feeling. That kind of good feeling dissolves very quickly when national interests collide. But there is another level of comprehension that, in bad times as well as good, provides insurance against misreadings of national purpose. There have already been enough examples of crucial misunderstandings in the Pacific politics of this century. Particularly with the present rise of Japanese wealth and influence, Americans can no longer leave it to a few diplomatic specialists to follow the internal dialogue in Japan.

The advent of the Japan Foundation brings attention to the meager state of Asian studies in this country. Senator Javits recently observed that "Japanese studies are available in only four per cent of all American colleges and universities, have an unfortunately low priority, and have suffered thereby." The senator offers an extremely useful proposal. In the reversion of Okinawa to Japan earlier this year, the Japanese agreed to pay the United States some $320 million for our investment, during the long occupation, in public facilities on Okinawa, Senator Javits has introduced legislation to devote one tenth of that compensation to "scholarly educational and cultural interchange." It would be a modest down payment on a reservoir of competence for which the need is already evident.

UNITED STATES-JAPAN PROBLEMS WON'T BE SOLVED QUICKLY

(By Henry Owen)

The best time to judge the results of a summit meeting is not in the immediate wake of exuberant communiques but after the excitement has subsided. The recent meeting between President Nixon and Prime Minister Tanaka of Japan is no exception. The passage of a week since that meeting makes it easier to appraise its results.

The Nixon-Tanaka meeting followed a ritual from which high level U.S.-Japanese meetings rarely deviate. Before the meeting, informed sources on both sides suggested that the object would be a full and frank discussion of key problems in U.S.-Japanese relations.

After the meeting, we were told—with some justice—that progress had been made. Phase 3 of the cycle, if past experience is any guide, will be increasing reports a few months hence from Tokyo and Washington that basic problems in U.S.-Japanese relations persist, and that another high-level meeting will have to be scheduled to deal with them—thus starting the cycle all over again.

The fact that this cycle persists, despite, periodic high-level meetings, should tell us something: That difficulties in U.S.-Japanese relations are not simply a matter of misunderstandings which can be set right by greater consultation but rather that they reflect substantive problems which are rooted in both countries' domestic politics, and which will continue until basic changes have taken place in attitudes on both sides of the Pacific.

Consider, for example, the issue of China. Both American and Japanese public opinion is attracted, for somewhat different reasons, by the notion of rapprochement with China. American and Japanese leaders thus draw domestic political advantage from trying to move their countries closer to Peking. Publicly, each welcomes the other's moves; privately, each worries that the other will win the competition for Peking's favor, and make too many concessions in the process.

This creates an inherent tension, as between two men courting the same girl, which cannot be obviated simply by their keeping each other "informed." This tension will continue until the powerful holds of the China myth—the belief that great things can be accomplished, and dire threats averted, by dealings with Peking—abates in both countries.

But this will not happen quickly. Public opinion in Japan and the United States has formed an exaggerated view of China's power and policy for a good many years, and a goodly period will be required before more realistic views prevail.

The second area of growing dispute is security. Japanese leaders worry lest the U.S.—in a fit of enthusiasm over the Nixon Doctrine—withdraw its forces not only from Southeast Asia, which most Japanese would be glad to see us evacuate, but also from Northeast Asia (the area around Japan and Korea), which they consider vital to their security.

They do not believe that it would be politically feasible for Japan to extend its military power beyond the home islands and thus replace the United States; they fear that the growing sense of insecurity which a U.S. withdrawal from Northeast Asia would trigger in Japan would lead to increasing pressure for a national Japanese nuclear deterrent.

Japanese worries that the United States will withdraw from Northeast Asia are not without foundation. U.S. defense budgets are increasing—as a result of the rising costs of weapons and military manpower. This will create continuing pressure to reduce our general-purpose forces—Army and Marine divisions, tactical air wings, and combat naval vessels.

If these cuts bite too deep, a real question will arise as to whether we can keep forces in Northeast Asia, and particularly in Korea—which the Japanese consider the key to their defense.

This problem will persist until we can find ways to bring U.S. defense costs under control without deep cuts in general-purpose force levels. This, too, will take time: Powerful groups—in the country, the Congress, and the bureaucracy—will have to be persuaded that unnecessary military bases in the United States should be closed, that gold-plated weapons systems should be simplified, and that further military pay and pension increases should be resisted, so that we can maintain the forces we need at a price we can afford.

Meanwhile, keeping U.S. forces in Northeast Asia won't be made any easier by the fact that Japanese governments will find it difficult—again, for domestic reasons—to indicate publicly their desire to see the United States maintain substantial force levels there.

In the economic area, Japan has agreed to a large increase in imports from the United States. Much of this is a speed-up of purchases that would have taken place anyway. After awhile it will become clear that the basic problem persists: Japan and the United States continue to maintain barriers against each other's imports, and the Japanese are

more competitive in certain exports than the United States.

So the argument will go on. The right way to resolve the argument is by a far-reaching agreement that tariffs and other barriers to trade among developed countries should be eliminated in the coming decade and that the international monetary system should provide for easy and frequent changes in currency values as required to take account of changes in trading countries economic positions.

Powerful domestic obstacles to both these reforms exist in the United States and Japan, as well as in Europe, which would also have to be involved. Until these obstacles can be overcome—until the three great industrial areas can agree on needed changes in the present international economic order—economic disputes between the United States and Japan will persist.

Obstacles to progress on all three of these problems—China, security, and economic policy—are compounded by the fact that the Japanese and American public don't understand each others' attitudes; a measure of thinly-veiled hostility can be sensed rising in both countries.

This is not surprising considering the obstacles of distance, language, and culture which exist. The Japanese government has recently taken a promising step to reduce these obstacles. It has created a Japan Foundation to support studies which will increase understanding of Japan and its relations with other countries; a large part of this foundation's fund will go to support studies in the United States, or by Americans in Japan.

Sen. Javits has introduced a bill providing for creation of a U.S. fund to be financed out of Japanese payments to the U.S. for Okinawa, which would support comparable studies. Early congressional action on this bill could be as important as any single step now pending in U.S.-Japanese relations; but, even if the bill is approved, the resulting studies and exchanges will take time to bear fruit.

So no one should be surprised if reports begin to emanate from Washington and Tokyo a few months hence which suggest that the meeting between President Nixon and Premier Tanaka did not resolve the troubles in U.S.-Japanese relations, and that important problems persist.

The President handled the Hawaii meeting well, and it ended on an upbeat note. But a hard look at its results, a week after the event, underlines the harsh reality: U.S.-Japanese relations are troubled not because of lack of consultation between the leaders of the two nations but because of basic problems—deeply rooted in the two countries' domestic politics—whose resolution will require much time and effort.

In the wake of Hawaii, the need is to get on with that effort, and to face up to the basic changes in policies and attitudes which it will require on both sides of the Pacific.

FUND TO BE ESTABLISHED FROM OKINAWA REVERSION PAYMENTS FOR PROMOTION OF JAPAN-UNITED STATES CULTURAL EXCHANGE BILL INTRODUCED IN CONGRESS

This act will set aside 10 percent ($32 million) of the $320 million reversion payment to be received from Japan under the Okinawa Reversion Agreement, for the purpose of establishing a fund to promote scholarly educational and cultural interchange between the United States and Japan.

Senator Javits announced the purposes of the act as follows:

1. Support for studies, including language studies, in institutions of higher education in Japan and the United States;

2. Support for major collections of Japanese books and libraries at American colleges and universities located throughout the United States;

3. Support for a mutual studies abroad program at the undergraduate, graduate and faculty levels; and

4. Support for visiting professors and lecturers at colleges and universities in Japan and the United States.

The act is designed to lay the groundwork for mutual understanding between Japan and the United States through institutions of higher education such as colleges and universities.

The need for promoting cultural exchange between Japan and the United States was underscored by both Japan and the United States at the Japan-United States summit meeting held in January this year at San Clemente. On the proposal of former Foreign Minister Takeo Fukuda, the establishment of a $100 million Japan Fund is now being formulated.

Under the act, a Japanese-American Friendship Commission composed of the Secretary of State, the Secretary of Health, Education, and Welfare, and six public members appointed by the President will be established to administer the funds.

Senator Javits explained the proposals and pointed out that (1) Japan has emerged as the second strongest economic power in the free world, but the number of students studying the Japanese language in the United States is as few as before; (2) Japanese studies are available in only 4 percent of all American colleges and universities; (3) friction between Japan and the United States stemming from the textile problem, President Nixon's China policy, and the new economic policy has made us appreciate how vitally important is the need for mutual understanding and communication between United States and Japan. In seeking Senate support of the bill, Senator Javits stated that "It is highly significant that a fund should be established for educational and cultural exchange out of the reversion payment in connection with the reversion of Okinawa whose historical achievement symbolizes cooperative friendly relations between United States and Japan."

An identical bill has been introduced in the House.

JAPANESE-AMERICAN FRIENDSHIP ACT INTRODUCED IN CONGRESS WILL PROMOTE JAPAN-UNITED STATES EDUCATIONAL AND CULTURAL EXCHANGE FUNDS FROM OKINAWA REVERSION PAYMENTS

Senator Jacob K. Javits together with 10 co-sponsors, and Representative Marvin L. Esch introduced in the Senate and the House respectively, on August 2 the Japanese-American Friendship Act of 1972 to administer a $32 million trust fund. This act appropriates to the President 10 percent of the $320 million payment to be received from Japan under the Okinawa Reversion Agreement for the purpose of establishing a fund to promote on a wide-ranging front educational and cultural exchange between the United States and Japan. This act is the counterpart to the Japan Fund (Japan-United States Cultural Exchange Fund).

In submitting the bill, Senator Javits, in his accompanying announcement pointed out the existence of significant gaps in communication created by economic friction over the textile problem and the Nixon shock, and stressed that promotion of studies in Japanese language, culture, and artistic activities remain a matter of utmost urgency for the United States.

The gist of the act is as follows:

1. It will appropriate to the President 10 percent of the payments to be received from Japan under the Okinawa Reversion Agreement for the purpose of establishing a Japanese-American Friendship Trust Fund. This fund will be used for educational and cultural interchange between the United States and Japan. The interest from the fund and no more than 5 percent of the principal, will be available as annual outlays.

2. The funds will provide support for (a) studies, including language studies, in institutions of higher education in Japan and the United States; (b) major collections of Japanese books and libraries at American colleges and universities located throughout the United States; (c) programs in the arts in association with institutions of higher education in Japan and the United States; (d) fellowships and scholarships for exchange students at the undergraduate and graduate levels; and (e) visiting professors and lecturers at colleges and universities in Japan and the United States.

3. To administer the funds, a Japanese-American Friendship Commission will be established. It will consist of the Secretary of State, the Secretary of Health, Education, and Welfare, and six other men of learning and experience.

"JAPANESE-AMERICAN EDUCATIONAL EXCHANGE FUND," BILL INTRODUCED IN SENATE, PORTION OF OKINAWA REVERSION PAYMENTS TO BE USED

Republican Senator Jacob K. Javits will introduce in the Senate on August 2 the Japanese-American Friendship Act of 1972. This act will set aside 10 percent of the $320 million reversion payment to be received from Japan under the Okinawa Reversion Agreement for the purpose of establishing a $32 million fund to revitalize educational and cultural exchange between the United States and Japan. Democratic Senator Edmund Muskie and others have added their names as co-sponsors, and it appears a certainty that, with bipartisan support, the act will be passed.

This act is based on the decision arrived at the meeting between former Prime Minister Sato and President Nixon at San Clemente to increase cultural exchanges between the United States and Japan. It is a counterpart to the ¥100 million Japan-United States Cultural Exchange Fund. Sources in the State Department are hopeful that this act will revitalize cultural exchanges between the United States and Japan which had dwindled due to United States budgetary constraints.

Under the act, a Japanese-American Friendship Commission composed of six public members appointed by the President together with the Secretary of State, and the Secretary of Health, Education, and Welfare will be established to administer the funds. The funds will provide support for (1) Japanese studies, including language studies, in institutions of higher education in the United States; (2) purchase of Japanese-related research materials at the universities and colleges; (3) a mutual studies abroad program for undergraduates and graduate students; and (4) exchange of visiting professors at colleges and universities in Japan and the United States.

As a reason for introducing the act, Senator Javits pointed out that Japanese studies programs are available in only 4 percent of all the universities and colleges, and only a few students are pursuing Japanese studies. If improvement of Japanese-United States relations is desired, he emphasized strongly the need to lay a firm foundation for cultural exchange programs.

By Mr. PACKWOOD (for himself, Mr. ABOUREZK, Mr. BAKER, Mr. BEALL, Mr. CHILES, Mr. CHURCH, Mr. CRANSTON, Mr. DOMINICK, Mr. EAGLETON, Mr. GURNEY, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. MCCLURE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENS, Mr. STEVENSON, Mr. TUNNEY, Mr. WEICKER, and Mr. MCGEE):

S. 650. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by mar-

ried individuals filing joint returns. Referred to the Committee on Finance.

TO RIGHT A WRONG

Mr. PACKWOOD. Mr. President, today I am introducing a bill that will remove an outrageously unfair tax burden from the shoulders of 30 million Americans who are being treated like second-class citizens by our tax laws.

They are the widows and widowers, the unmarried men and women, and the divorced of this great Nation. And, simply because they are single, they are forced to pay up to 20 percent more in taxes than their married counterparts on the same amounts of taxable income.

Last October, the Senate passed an amendment I introduced that would have corrected this grievous error perpetrated by Congress. The bill my colleagues and I are bringing before the Senate today is identical to that amendment, and I hope my colleagues again will approve this much-needed bill.

This bill will authorize unmarried taxpayers to figure their tax using the table in section 1 of the Internal Revenue Code that is currently reserved for use by married couples filing jointly.

Mr. President, I do not think we can overemphasize the seriousness or the magnitude of this problem. We are talking about a group of people big enough to populate three States the size Illinois—or 15 States the size of Oregon.

Congress pushed these overtaxed Americans into an unfair tax bracket, and it is up to Congress to right this wrong.

Under our current system of assessing tax liability on the basis of the taxpayer's marital status, we are asking these 30 million unmarried citizens to assume a disproportionate share of the cost of running our Government. It has been estimated that the total cost of this discriminatory "surtax" on single people is about $1.6 billion. I ask unanimous consent to have printed at the conclusion of my remarks a table showing the extent to which this "surtax" is levied against unmarried taxpayers.

Let me cite two examples of the inequitable situation that results from the presence of the various tables in the Internal Revenue Code.

A single taxpayer having a taxable income of $8,000 pays $1,590 in Federal income taxes. By contrast, a married taxpayer having the same taxable income of $8,000 will pay only $1,380—a difference of $210.

In another instance, a single taxpayer having a taxable income of $14,000 will pay $3,210 in Federal income taxes compared to the $2,760 paid by his married friend living next door. That comes down to a single-person "surtax" of $450.

Those figures, Mr. President, graphically portray the extent to which the Federal tax law discriminates against single taxpayers.

Here, I also would like to point out a rather frightening fact that we may not all be aware of—and it is that only six other countries tax their unmarried persons more heavily than their married persons. Of the six, five are dictatorships: Russia, three of her satellites and Spain. Among democracies, only the Netherlands, places a tax penalty on being unmarried.

To continue this unfair taxation is totally unpalatable, unacceptable and undemocratic.

We are living in an age and time where discrimination in any form is being fought. Our Federal tax laws recognize the special tax problems of the poor, the elderly, the oil-well owner and the real estate investor—yet we blatantly discriminate against 30 million persons simply because they do not have a spouse.

Yet, there are those among our colleagues who would have us believe that such unfair treatment is justified on the basis of the additional burden of married life. Let us, for the moment, assume that such a consideration is justified—mind you, I am not suggesting that it is—but let us just assume for the sake of the debate that it is. How then can we explain this discrimination to the 3.6 million taxpayers who file their taxes as heads of household?

These taxpayers must meet all of the responsibilities of a married couple with a family. In fact, I would suggest that a head of household bears a greater burden in the raising of his or her family. This is so far a number of reasons—the most obvious being that with only one adult present, the potential income production of the family unit is half that of a married couple with a family, and that additional expenses are incurred in caring for the family while the sole wage-earner plys his or her trade.

Mr. President, it occurs to me if our tax laws are to discriminate in favor of any class of taxpayers, we might logically conclude that the favored group would be those taxpayers who bear the burden of raising a family alone. But logic is not one of the characteristic features of our Federal tax laws; for these "parents without partners," as they are sometimes referred to, are not given preferential treatment, they are not even given equal treatment as compared with married couples. They, too, are discriminated against most unfairly by our tax laws. Granted, they pay only half the penalty single persons do—with a maximum of 10 percent more in taxes than a married couple with an identical amount of taxable income. Still this is a most unfair burden to ask these 3.6 million taxpayers to bear.

Let us look for a moment at the dollars and cents translation of this inequitable treatment of a head of household by our tax law. A head of household with taxable income of $8,000 pays $1,480 in taxes, his married neighbors—whether or not they have assumed the responsibility of raising a family—pay $1,380 for a net "surtax" of $100 levied against the unmarried family head. When the taxable income doubles to $16,000, a head of household pays $3,540; his married neighbors pay $3,260; a net "surtax" of $280. This unfair treatment of these unmarried taxpayers must be stopped now.

It is only fair that the Federal tax laws recognize the varying living costs beween a family and a single individual. But the income tax laws should reflect such differences in conditions and responsibilities by allowing reasonable deductions and exemptions. If we have not done this, as some suggest we have not, then it deserves a closer look in the future. In any event, such a failure on our part to adequately consider these matters through the vehicle of deductions from adjusted gross income is not to be viewed as an excuse for continuing 1 day longer our current discrimination between taxpayers of differing marital status with identical amounts of taxable income.

Mr. President, this is the crux of the issue at hand. Once taxable income is determined, the same rate should apply to all who have the same income, regardless of their marital status. To achieve this desirable end, we must reorient our thinking and adjust the focus of our tax laws.

Let me refer briefly to a principle argument present by some people who favor retaining the unfair applications of the tax laws. They argue that to eliminate this remaining major vestige of discriminatory treatment of unmarried individuals would undermine some mysteriously essential bulwark of marriage and that its elimination would encourage cohabitation, concubinage, and other moral atrocities.

Frankly, I cannot bring myself to believe that the institution of marriage leans upon such a frail reed as the treatment accorded married people as opposed to unmarried people by the Federal income tax law.

In any event, to the extent this argument is advanced by opponents of this bill, I would counter by declaring that I subscribe completely with the sentiments of Vivian Kellems, that grand 77-year-old Connecticut woman, who once said:

> Taxation is for one purpose only, to raise revenues for the legitimate functions of the government . . . the people of this country are perfectly capable of taking care of their morals whether they are married or single.

She went on to say that—

> It is not the province of the Congress to legislate the peoples' morals by means of taxation.

During the last two decades, Congress has done much to approach the point where unmarried people are viewed as being equal to married couples in the eyes of the tax collector. But we have not yet gone the full distance. Notably, in 1969, Congress became openly concerned about the higher tax rate applied to the taxable incomes of unmarried persons and reduced them.

Until 1969, however, single taxpayers paid up to 41 percent greater taxes than married people with the same taxable income. The Tax Reform Act of 1969 reduced, but did not abolish, the inequity.

When my amendment was offered to the Revenue Act of 1971, opponents argued the tax schedules currently contained in the Internal Revenue Code provide that, in general, and given identical taxable incomes, the tax paid by an unmarried individual would never exceed the tax levied against a married couple filing a joint return by more than 20 percent.

They apparently look upon this as evidence that we, in the Congress, in our benevolent munificence, have decided to grant 80 percent tax equality to our unmarried citizens.

This is not fair by any stretch of the imagination.

We are still 20 percent wrong in our treatment of unmarried taxpayers. To put it another way, to pompously state that we are granting 80 percent equality to single taxpayers is not unlike the Congress publicly declaring in law that it shall henceforth be the policy of these United States that a black man can be equal to a white man 80 percent of the time—or that a woman can rightly claim equality with a man 80 percent of the time.

Ludicrous, is not it? But that is precisely the metaphorical meaning of the argument presented by opponents of this legislation when they self-righteously point to the 1969 Tax Reform Act as evidence of our good intentions.

When we are doing everything we can in the field of day care, when we have already done everything we can in the area of an equal rights amendment, and when we are doing everyhing we can to make it possible for men and women, married or single, to be treated equally, there is no longer any reason—if, indeed, there was ever any—to be found in our continuing this discriminatory treatment of one-fourth of our taxpayers.

Why should these 30 million people be compelled to contribute an estimated additional $1.6 billion to the Federal Treasury this year simply because, whether by choice or by chance, they are unmarried?

It is preposterous that this unfair element of the Internal Revenue Code has been allowed to go unchallenged in any serious degree for so many years. Congress is responsible for this gross inequity in our tax laws—only Congress can right this wrong.

Consequently, I urge my colleagues to eliminate this unmitigated Federal tax discrimination against 30 million of our citizens. We must waste no more time in building a fair tax law for all individuals, regardless of their marital status.

Mr. President, I ask unanimous consent that the text of the bill I am introducing, as well as a letter from the Department of the Treasury, be inserted in the RECORD at the conclusion of my remarks.

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

S. 650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Internal Revenue Code of 1954 (relating to rates of tax on individuals) is amended—

(a) by striking out subsections (b) and (c);

(b) by redesignating subsection (d) as (b); and

(c) by striking out so much of subsection (a) as precedes the table therein and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income of every individual, other than an individual to whom subsection (b) applies, a tax determined in accordance with the following table:".

SEC. 2. Section 2 of such Code (relating to definitions and special rules) is amended—

(a) by striking out subsections (a) and (b); and

(b) by redesignating subsections (c), (d) and (e) as subsections (a), (b) and (c), respectively.

SEC. 3. Sections 511(b)(1) and 641 of such Code are each amended by striking out "section 1(d)" and inserting in lieu thereof "section 1(b)".

SEC. 4. Section 6015 (a)(1) of such Code is amended to read as follows:

"(1) the gross income for the taxable year can reasonably be expected to exceed $10,000 ($5,000, in the case of an individual subject to tax imposed by section 1(b) for the taxable year); or".

SEC. 5. The amendments made by this Act shall apply to taxable years beginning after December 31, 1973.

SEC. 6. The Secretary of the Treasury or his delegate shall prescribe and publish tables reflecting the amendments made by this Act which shall apply, in lieu of the tables set forth in section 3402(a) of the Internal Revenue Code of 1954 (relating to percentage methods of withholding), with respect to wages paid on or after January 1, 1974.

DEPARTMENT OF THE TREASURY,
Washington, D.C., January 4, 1973.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: Mr. Edward Kemp of your office has requested by telephone a current Department of the Treasury estimate of the cost of a bill which would eliminate the present individual income tax rate schedules for single persons and heads of households making the rate schedule now used for joint returns applicable to all returns except those of married couples filing separately and returns of estates and trusts. We have not had the opportunity to make a detailed recalculation of the cost of this proposal at income levels and under tax laws applicable to 1973 but the cost would be of the general magnitude of $1.6 or $1.7 billion annually. Mr. Kemp indicated that a rough estimate now would be more useful than waiting for a more precise estimate at a later date.

I hope this information will be helpful to you.

Sincerely yours,

MARTIN J. BAILEY,
Deputy Assistant Secretary.

FACT SHEET ON THE SINGLE-PERSON TAX AMENDMENT

HOW WOULD THE AMENDMENT OPERATE?

Currently, there are four tax tables for use by taxpayers in different categories: unmarrieds, heads of household, married filing jointly, and married filing separately. The amendment would result in having two tax tables: married filing separately and everyone else.

WHEN WOULD THE AMENDMENT GO INTO EFFECT?

The change in the tax law would be effective beginning January 1, 1974. It would benefit all unmarried taxpayers who file a return on April 15, 1975, and from there on.

WHAT WOULD BE THE COST OF THE AMENDMENT?

It is estimated by the Department of the Treasury that the first year loss in revenues from passage of this amendment will be $1.6 billion. Thereafter, the loss in revenue would increase proportionally to the increase in the personal income tax base.

HOW MANY TAXPAYERS WILL BE AFFECTED BY THE AMENDMENT?

Estimates indicate that there are approximately 30 million single persons and heads of household who will benefit by approval of this amendment. These taxpayers are, of course, located throughout the nation.

CAN YOU GIVE ME SOME EXAMPLES OF HOW THIS AMENDMENT WOULD CHANGE THE INCOME TAX LIABILITY OF A SINGLE PERSON?

Certainly! First, though, it is imperative that we remember that the change in the tax laws would affect the tax liability based on taxable income. The effect of this fact is that a married couple could very well earn more money—as reflected in Adjusted Gross Income—than an unmarried person and still have an identical tax liability.

Enough said, following are a few examples of how a single person's tax liability would be reduced (equalized) by virtue of passage of this amendment:

	Present tax	Proposed tax
Taxable income:		
$8,000	$1,590	$1,380
$14,000	3,210	2,760
$20,000	5,230	4,380

FEDERAL INCOME TAX SURTAX LEVIED AGAINST UNMARRIED INDIVIDUALS—TAX LIABILITY

	Married filing jointly	Single individual			Head of household		
		Tax	Surtax	Percentage	Tax	Surtax	Percentage
Taxable income:							
$6,000	$1,000	$1,110	$110	11.0	$1,040	$40	4.0
$8,000	1,380	1,590	210	15.2	1,480	100	7.2
$10,000	1,820	2,090	270	14.8	1,940	120	6.6
$12,000	2,260	2,630	370	16.4	2,440	180	8.0
$14,000	2,760	3,210	450	16.3	2,980	220	8.0
$16,000	$3,260	$3,830	$570	17.5	$3,540	$280	8.6
$20,000	4,380	5,230	850	19.4	4,800	420	9.6
$24,000	5,660	6,790	1,130	20.0	6,220	560	9.9
$28,000	7,100	8,490	1,390	19.6	7,800	700	9.9
$32,000	8,660	10,290	1,630	18.8	9,480	820	9.5
$44,000	14,060	16,590	2,530	18.0	15,340	1,280	9.1

FAIR TAXES FOR SINGLE PERSONS

Mr. RIBICOFF. Mr. President, I am pleased to join the distinguished Senator from Oregon (Mr. PACKWOOD) in introducing legislation to extend equal tax treatment to the more than 30 million single individuals now treated unfairly by the Internal Revenue Code.

The present discriminatory tax rates for single people occurred by historical accident. Before World War II, eight States had community property laws which divided income equally between husband and wife. The U.S. Supreme Court ruled that married couples in these

States could therefore divide their income and file separate U.S. tax returns. This meant that such couples were taxed at a lower rate.

Several other States soon passed laws giving their citizens a similar tax advantage. In an effort to restore tax equality and to prevent wholesale disruption of local tax and property laws, Congress in 1948 made income-splitting by married couples a national procedure.

While this move benefited married taxpayers, it increased the relative tax burden on unmarried citizens by approximately $1.6 billion per year. For example, under the present code a single taxpayer with an income of $8,000 pays $1,590 in Federal income taxes. A married taxpayer with the same income would only owe $1,380—a difference of $210. If both parties' income was $14,000 the single person would pay $450 more than the married person.

The income tax should reflect differences in condition and responsibilities by allowing reasonable deductions. However, once the taxable income is determined, the same rate should apply to all those who have the same income, regardless of whether they are married or single.

Defenders of the present system argue that single persons do not bear the costs and responsibilities of raising children. But income-splitting under the present law does not differentiate among taxpayers in this respect, since the benefit is the same whether or not they have children.

Under the present Internal Revenue Code, married taxpayers without children are even treated better than single heads of households with children even though those single taxpayers have all the responsibilities of married couple with children.

The Tax Reform Act of 1969 took a step in the right direction by limiting the differential between single and married rates to a maximum of 20 percent. That, however, is not enough. The bill we introduce today would finish the reform by eliminating this inequity completely.

Much of the credit for the progress already made in this area goes, I am pleased to say, to a long time friend of mine, Miss Vivien Kellems of East Haddam, Conn. Miss Kellems has been the founder and guiding force behind the movement to free single persons from the inequities of higher taxes. She has refused to retreat from her position and has even gone so far as to join battle personally with the Internal Revenue Service.

Vivien Kellems has pointed the way and now it is up to those of us in the Congress to follow through. Last year during the consideration of the debt limit bill, an identical amendment to the bill we introduce today passed the Senate by voice vote after an attempt to table it was defeated 53 to 19. I hope that when tax reform legislation is considered by the 93d Congress our bill will receive similar positive support.

By Mr. McCLURE:

S. 651. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain recordkeeping provisions with respect to ammunition; and

S. 652. A bill to repeal the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

Mr. McCLURE. Mr. President, I heard the news about JOHN STENNIS with great sadness. In only 3 weeks in the Senate, I have already learned why this kind, decent man is so respected.

It would be ironic if this tragedy were to form the basis of another assault on our personal liberties by those who want to disarm the private citizen. I am sure it is being viewed as an opportunity for another round of firearms legislation, although Senator STENNIS himself would be the first to say you do not prevent crime by taking guns away from the innocent.

Gun control advocates conveniently forget that crime flourishes when courts are lenient and when controls on police officers hamper effective law enforcement. All of the firearm laws in the world are not going to deter crime until there is change in attitude toward the role of law enforcement. I do not minimize for a moment the seriousness of the crime situation in the District of Columbia. Neither do I minimize the danger that the threat of further firearms control can bring.

To emphasize my concern, I am taking this opportunity to reintroduce two pieces of legislation which I sponsored in the House of Representatives. Taken together, I think they put the question of guns and crime in the proper perspective.

The first would repeal the Gun Control Act of 1968, a law passed at a moment of national hysteria and a law that has proved to have no adverse effect on anyone other than the law-abiding citizen.

The second bill provides that the use of a firearm in the commission of any Federal crime is a separate Federal offense. A mandatory sentence of from 5 to 10 years imprisonment would be imposed upon criminals convicted of using a gun while committing a Federal felony. A second conviction would result in a mandatory 10 years to life sentence. Courts would neither suspend the sentence nor allow it to run concurrently with any other sentence. In addition, the bill removes registration requirements from ammunition.

Idaho led the fight against gun controls back in 1968, and time has proven us right. Existing laws are little more than harrassment of honest citizens. Crime statistics, where a gun is involved, are no lower. It is time to shift this burden from the shoulders of the lawful to the criminal. I think Senator STENNIS would heartily approve.

By Mr. BELLMON (for himself, Mr. BARTLETT, Mr. BEALL, Mr. BIBLE, Mr. CHILES, Mr. ERVIN, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HUMPHREY, Mr. McCLELLAN, Mr. McGEE, Mr. MONDALE, and Mr. THURMOND):

S. 653. A bill to insure the separation of powers by prohibiting the impoundment of funds from the highway trust fund which have been apportioned and appropriated. Referred to the Committee on Finance.

Mr. BELLMON. Mr. President, on behalf of myself and 12 other Senators, I am introducing legislation which is intended to rectify a serious Executive encroachment upon the legislative power of Congress, and to prevent the executive branch from further frustrating the legislative purpose of the Federal Aid Highway Act. This bill when enacted will prohibit the practice of impoundment of money from the highway trust fund.

Mr. President, the framers of our Constitution wisely created three separate but coequal branches of Government out of which grew the constitutional doctrine of "separation of powers." Now, nearly 200 years later, this doctrine is being severely tested and, in fact, largely ignored at least insofar as it concerns the present and past administration of the highway trust fund. Therefore, it is the intent of this bill to finally set straight what Congress always intended, by prohibiting action by any officer or employee of any department, agency, or instrumentality of the executive branch which would result in the impoundment or withholding from obligation of money from the highway trust fund.

The need for this legislation is quite evident when one examines only briefly the legislative history of the 1956 Federal Aid Highway Act. Let me explain: In 1956, Congress passed the Federal Aid Highway Act and in so doing created the highway trust fund wherein Congress earmarked revenue from certain taxes to go directly into a trust fund which was then to be apportioned to the various States. These taxes are:

Motor fuel: 4 cents per gallon.

New trucks, and trailers—over 10,000 pounds gross weight—and new buses, other than transit: 10 percent on the manufacturer's wholesale price.

Highway vehicle tires and tubes: 10 cents per pound.

Other tires, and tread rubber: 5 cents per pound.

Heavy vehicle use: $3.00 per 1,000 pounds annually on the total gross weight of vehicles rated at more than 26,000 pounds gross weight.

Parts and accessories: 8 percent on the manufacturer's wholesale price of truck and bus parts and accessories.

Lubricating oil: 6 cents per gallon, if used for highway purposes.

This system worked extremely well and the construction of the Nation's interstate highway system was progressing in an orderly manner until 6 years ago, at which time the administration began an impoundment practice. I believe this to be clearly contrary to the will of Congress and the legislative purpose of the highway act.

The practice of refusing to permit States to enter into highway construction contracts, to the extent authorized by Congress, was initiated in fiscal year 1967. The Director of the Bureau of the Budget ordered the reduction of obligational authority under the Federal aid highway program by $700 million with an additional reduction of $600 million ordered on January 23, 1968, for calendar year 1968. Another withholding occurred

in fiscal year 1971, when the $5.425 billion congressional authorization was reduced to $4.6 billion. Although this reduction was partially in response to a congressional spending ceiling, it was also the direct result of fiscal policies announced by the President on July 18, 1970. Finally, for fiscal year 1972 and fiscal year 1973, further reductions in obligational authority were made of approximately $488 million and $1.7 billion respectively.

What possible authority or legal justification does the executive branch have to indulge in this practice of withholding obligational authority from the States? Certainly none as far as I am concerned. In fact, a Federal district court recently held that the executive branch has unlawfully impounded that part of the Highway Trust Fund which should be apportioned to the State of Missouri. The U.S. District Court for the Western District of Missouri ruled on June 12, 1972, in the case of *Missouri Highway Commission* v. *Volpe*, 347 F. Supp. 951, that the Secretary of Transportation and the Director of the Office of Management and Budget do not have discretion under the Federal Aid Highway Act of 1956 to impound highway trust moneys except for very specific reasons. This case was argued on appeal on January 10, 1973, before the U.S. Court of Appeals for the Eighth Circuit in St. Louis and a decision is presently pending by that court.

In the lower court's decision, Judge Becker's opinion was based largely upon an interpretation of paragraph (c) of 23 U.S.C. 101 which states:

(c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid system which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which would be required to be made from such fund.

Judge Becker found that the withholding of funds from obligational authority was not "within the lawful discretion of the Secretary."

He stated further:

The reasons advanced by the Secretary for the current and past withholding of obligational authority are foreign to the standards and purposes of the Act and the Fund. The reasons relied on are related to the prevention of inflation of wages and prices in the national economy. These reasons are impermissible reasons for action which frustrates the purposes and standards of the Act, including but not limited to those in Section 109 Title 23, U.S.C.A. Therefore it is not within the discretion of the Secretary to withhold obligational authority from Missouri and Judicial relief should be granted.

It is a mystery to me why, with the intent of Congress clearly spelled out in the statutes and a further declaration of the sense of Congress that no funds should be impounded or withheld from obligation, the executive branch continues to hold this vital program hostage. Certainly one thing is quite clear—that every State suffers as a result of this practice, funds have now been withheld and this policy is having a devastating impact upon the completion of our interstate highway system, resulting in increased costs, periodic unemployment, and the construction postponement of vital segments of this system. As the third coequal branch of Government, the Court is an independent arbiter and thus uniquely qualified to rule in this area.

Such a practice contributes significantly to the ever-increasing cost of highway construction. To illustrate: From 1956, when the act was originally initiated, through 1970, highway construction costs rose by more than 41 percent. Certainly an early completion of our Interstate System is a worthwhile goal because delays in completion will only mean that additional outlays must eventually be made.

In addition, completion of our national Interstate System is imperative if we are to reduce the slaughter which is presently taking place on our Nation's highways. It is a national disgrace when more than 55,000 persons lose their lives each year on our country's roads. Delays only mean that more lives will be lost on our highways and will only postpone the day when our citizens have a safe system of interstate roads.

The concern felt by the States regarding this problem was expressed in policy positions adopted by the National Governor's Conference at its 64th annual meeting held June 4–7, 1972, in Houston, Tex.

In the section dealing with highways, the Governors stated:

The management of the federal Highway Trust Fund during fiscal year 1972 continues to exemplify the problems which have persisted since 1967 by severely hampering the capital planning and programming capability of the States. If we are to attain and retain any stability in constructing the Nation's highway system, efforts must be made to eliminate the up and down obligational authority of the highway program. The continued practice of using the Highway Trust Fund as a stop-gap effort to adjust the economy must be ended.

Mr. President, in 1967 the Attorney General of the United States rendered an opinion which in part stated:

There is nothing in Title 23 of the United States Code which imposes upon the Executive Branch the duty to approve all qualifying projects for which apportioned funds are available.

The bill I have introduced will finally set the record straight and impose such a duty. Congress will go on record to clearly spell out its intent that funds not be withheld from obligational authority from the States.

Regardless of whether one believes the highway trust fund should be utilized for mass transit, or whatever, one must agree that the practice of executive impoundment in this area should and must be stopped. I am fully aware that many in the Senate feel that money should be diverted from the trust fund for this purpose. My bill does not deal with this issue. The important question at this time is: Who is going to decide when and how this money will be spent, Congress or the Executive? I am firmly committed to the principle that until Congress decides otherwise the executive should follow the legislative mandate of Congress regarding the highway trust fund. Failure to do so is nothing short of a direct violation of the "separation of powers" doctrine. Congress is given by the Constitution the legislative power, including the power under article 1, section 9, to appropriate funds. The executive branch is given no role to play in the legislative process other than the power to recommend legislation and limited veto power. In addition, the President is required by article 11, section 3 of the Constitution to "take care that the laws be faithfully executed." In my view, it would be extremely difficult to formulate a constitutional theory to justify a refusal by the President to comply with the congressional directive to spend as enumerated in section 101 (c) of the Federal Highway Act.

Let the Senate act promptly to cause the highway trust fund to be used as originally intended. Let the Senate act to end "stop and go" financing which causes periodic unemployment for thousands of construction workers and which by intermittent funding has greatly increased the cost of highway construction. It is time that Congress reasserted its proper role in the appropriation process and enacted this legislation in order to prohibit the Executive from further thwarting the will of Congress.

I ask unanimous consent that this bill be printed in full in the RECORD at the conclusion of my remarks.

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

S. 653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no part of any sums authorized to be apportioned by the provisions of section 104 of title 23, United States Code, which have been appropriated by Congress for expenditure shall be impounded or withheld from obligation, for the purposes and projects as provided in that title, by an officer or employee of any department, agency, or instrumentality of the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the highway trust fund to defray the expenditures which will be required to be made from such fund.

By Mr. BEALL:

S. 654. A bill to establish an Emergency Medical Services Administration within the Department of Health, Education, and Welfare to assist communities in providing professional emergency medical care. Referred to the Committee on Labor and Public Welfare.

Mr. BEALL. Mr. President, I introduce the Emergency Medical Services Systems Act.

The legislation is almost identical to S. 3911, which was introduced in the last Congress, although some minor technical changes have been made.

This bill was designed to encourage

State and local communities to implement programs to improve and expand emergency medical services in the Nation so as to prevent needless loss of lives and to assure nationwide availability and accessibility of emergency medical services to mobile citizens.

Specifically, the legislation authorizes:

First, the establishment of an Emergency Medical Services Administration within the Department of Health, Education, and Welfare, headed by a Director appointed by the President.

Second, a Federal matching program to the States for grants to communities within the States for development and operation of emergency medical service systems. The Federal contribution would be limited to 75 percent of the costs for the initial year, 50 percent for the second year, and 25 percent in any year thereafter.

Third, the Federal Director to issue standards governing the operation of emergency medical service systems which would include the establishment of minimum requirements for emergency medical service equipment; licensure by States of ambulance service procedures; communications and reporting; levels of adequate liability insurance to cover ambulance operations; and personnel training.

Fourth, direct Federal assistance up to 50 percent of the costs of a community for the initial purchase of ambulance facilities.

Fifth, a Federal research and development program under which the Director would be authorized to conduct or contract for studies and research on the problems and conditions of emergency medical care and methods with particular attention to the utilization of technological advances in the improvements of emergency services. This would also include at least one statewide emergency transportation system.

For those provisions providing for community emergency medical services systems and for initial purchasing of ambulance facility equipment and communication systems, the bill authorizes $150 million for each of 3 years. For the other expenses in administering the program, the bill authorizes $50, $60, and $75 million over a 3-year period.

To illustrate the magnitude and gravity of the problem of emergency care and services, when I introduced the legislation last year, I compared the deaths and costs of the tropical storm Agnes, which swept the east coast of the United States from June 16 to June 23 and which had been front page news, with the staggering toll of accidents in this country. I noted that during the 6 days that Agnes rampaged through the east coast 118 lives were lost and the total damage nationally was estimated at $3 billion.

However, I observed that on each of these days an average of 316 of our citizens died of injuries resulting from accidents, for a total of 2,212 victims over the same 6-day period.

The comparison indicates. I believe, the seriousness of the problem and the urgency for action in this area, action that may mean the difference between life and death for the 316 Americans who will die from accidents today and the 316 who will die tomorrow, the next day and so on.

Mr. President, emergency health care for too long has been a neglected health area, which has rightfully been called the hidden crisis in health care by Secretary DuVal.

Yet, injuries are the killer of Americans ages 1 through 37, second leading cause of deaths between the ages of 1 through 48 and the fourth cause of deaths among the total population. One out of every four citizens in this country will have some type of accident this year. Every eighth hospital bed is occupied by an accident victim.

The National Safety Council has estimated that accidents cause loss of 150,000 lives annually; 55,000 individuals were killed as a result of motor vehicle accidents alone

In addition, these accidents cause approximately 10 million disabling injuries leaving 400,000 individuals totally disabled. The total cost to the Nation of these injuries is estimated at $25 billion. Each year the number that dies from trauma or serious injuries is greater than the total of all Americans killed in Vietnam.

All of us are potential victims. Yet, the public in general tends to regard accidents as unfortunate occurrences that are inevitable.

In Vietnam this premise was not accepted with the result that a trauma victim in Vietnam probably has a better chance of survival than a victim here in the United States. This is because the military has developed during World War II and the Korean conflict an organized system of transporting and treating emergency victims. This procedure has been perfected further in Vietnam, until the Secretary of Defense was able to say that the death rate of such victims in Vietnam is near zero. I would point out that this measure also would encourage the utilization of the skills of returning corpsmen in appropriate emergency service positions. Veterans could employ the skills they acquired in the military to save lives here at home.

Mr. President, I am convinced that the technology and know-how exists to make similar dramatic improvements here at home. We need only to rationalize and categorize our emergency facilities and services, and additional resources to enable the application of known life saving methods. Heart attack victims could also benefit from improved emergency care arrangements. Some experts have estimated that prompt and early care might save 150,000 heart attack victims annually.

President Nixon responded to the neglect in the emergency care area by initiating a research and development effort to demonstrate improved emergency care and services here in the United States.

The State of Maryland has been a pionneer in this area for some time. We probably have the most sophisticated trauma center in the Nation located at the University of Maryland Hospital in Baltimore. A system of rapid transportation has been developed utilizing a helicopter system operated by the Maryland State Police.

The Maryland University Shock-Trauma Center, the Johns Hopkins University Hospital Pediatrics Trauma Center, the Baltimore City Hospital—University of Maryland Neonatal Centers, the Baltimore City Hospital Burn Center, special coronary units, community hospitals and the paid and volunteer ambulance services provided the Baltimore metropolitan area and the State, means that Maryland has the component parts, and an outstanding capability to lead the Nation in this vital area.

I have been working with the State, the Maryland Truma Center and others to assure that our resources, capabilities, and expertise in the emergency care will be available to all our citizens across the State.

Recently it was my pleasure to announce that the State was granted a $1.25 million grant for the development of an emergency medical services communications system, a vital component of a total emergency care system, in the Baltimore metropolitan area.

This communications system will improve care for victims of medical emergencies by getting the victim to the best medical facility as rapidly as possible. Hospitals, ambulances, helicopters, and medical personnel will be linked by a radio-telephone network.

The project will establish a central dispatch facility, provide 24-hour medical consultation, link hospitals with the State police's medivac helicopter program, and provide immediate care for coronary patients through telemetry equipment installed in ambulances. I believe that we should develop a statewide system for emergency care.

This Congress and the administration have accelerated our attack against cancer and heart diseases. In both of these areas we are looking for new discoveries and new breakthroughs. In the trauma area I am convinced that the technology and know-how exists to dramatically reduce the tragic accident deaths. This is an area where action will lead to immediate payoffs in terms of lives saved. Legislation encouraging emergency medical care is badly needed. Action in this area can mean the difference between life and death for accident victims.

The proposal I advance today is the product of the interest and work of the AMA. I want to take this opportunity to congratulate the AMA and the doctors of America for their help in focusing national attention on this area of need of the health system.

I also want to encourage doctors and hospital administrators and all other members of the health team, as well as the general public, to get interested in this area. For our ultimate success will not depend on what is done at the Federal level, although Federal assistance will help, but on the response and action by the States and communities.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 654

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

SECTION 1. That this Act may be cited as the "Emergency Medical Service Systems Act".

FINDINGS; DECLARATION OF POLICY AND PURPOSE

SEC. 2. (a) The Congress finds——

(1) That there is an urgent need for the development and improvement of emergency medical services in many urban, suburban, and rural areas throughout the Nation.

(2) That countless lives have been and are being lost through the lack of prompt and professional emergency services, and many of these lives could be saved if such care were more readily available.

(3) That while programs can best be planned at the local and regional levels, implementation will require coordination at community, regional, State and National levels.

(b) It is the policy of the Congress and the purpose of this Act to encourage the implementation of programs for delivery of emergency medical services, to assure nationwide availability and accessibility of such emergency medical services, and to prevent the needless loss of life by upgrading the quality of emergency medical services in the United States. This purpose should be achieved through the establishment of a Federal entity having the authority to set standards for ambulance and life support equipment, ambulance-to-hospital and disaster radio communication, personnel training, emergency room facilities and personnel, ancillary supporting services within the hospital, and other components of qualified emergency medical service systems, giving special consideration to the utilization and training of discharged military medical corpsmen, and the authority to provide financial assistance to States for distribution in the development and establishment of qualified emergency medical service systems operated by or under the supervision and auspices of local political subdivisions or combinations thereof.

ESTABLISHMENT OF EMERGENCY MEDICAL SERVICES ADMINISTRATION

SEC. 3. There is established within the Department of Health, Education, and Welfare an Emergency Medical Services Administration (hereinafter referred to as the "Administration"). The Administration shall be headed by a Director (hereinafter referred to as the "Director") who shall be a qualified health care professional appointed by the President, by and with the advice and consent of the Senate.

DIRECTOR OF THE ADMINISTRATION; TECHNICAL AND PROFESSIONAL PERSONNEL

SEC. 4. (a) The Director, under the general direction and supervision of the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), shall carry out the functions and responsibilities vested in or transferred to him or the Administration by or under this Act, and shall perform such related duties as may be prescribed by the Secretary to carry out the purpose of this Act.

(b) The Director shall serve at the pleasure of the President and shall receive basic pay at the rate prescribed for level V of the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code.

(c) With the approval of the Secretary, the Director shall appoint such technical and professional personnel as he deems necessary, in addition to the regular personnel of the Department under his jurisdiction and control, to carry out the functions of the Administration, and shall fix the pay of the personnel so appointed, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

FINANCIAL ASSISTANCE FOR DEVELOPMENT AND OPERATION OF EMERGENCY MEDICAL SERVICE SYSTEMS

SEC. 5. (a) In order to make funds available to local communities to assist in the development and operation of qualified emergency medical service systems, and improvement of existing emergency medical services, the Director is authorized to allot funds to qualified States for distribution to communities as provided in section 6.

(b) A community, within the meaning of subsection (a), shall be a political subdivision or a regional combination of subdivisions and may encompass an area of one or more counties, or a part or contiguous parts thereof, and may be situated in more than one state.

(c) A qualified emergency medical service system, within the meaning of subsection (a), shall operate within standards which the Director shall by regulations prescribe, shall provide comprehensive emergency medical services, directly through facilities and staff of the community or indirectly through contractual arrangements with public or private agencies, organizations, or other entities, and shall include:

(1) well-equipped emergency vehicles, staffed by emergency medical service technicians, with special consideration given to the utilization of discharged military corpsmen, trained and equipped to provide necessary life support at the scene of accident or illness and during transportation;

(2) a communications system that assures prompt response to the need;

(3) high quality emergency care facilities, staff, and equipment at the hospital level;

(4) medical self-help training programs that reach a large number of area residents;

(5) adequate highway signs to locate emergency medical services;

(6) emergency medical services adequate to meet the needs of the community or region;

(7) periodic evaluation of the quality of services to be provided through systems of inspection by the State, and such other quality control measures as the Director shall deem appropriate;

(8) registration of ambulance attendants through a national registry program maintained by a voluntary organization such as the National Registry of Emergency Medical Technicians which shall provide for periodic review of personnel;

(9) categorization of emergency capabilities within regional planning;

(10) hospital facilities to meet the emergency medical service needs for the area; and

(11) such other components as the Director may add.

GRANTS TO STATES

SEC. 6. (a) The Director shall allocate and pay to each State which qualifies under section 7, with respect to any fiscal year, from the funds appropriated pursuant to section 18(a) for such year, an amount (based on the population of the State and other conditions, such as population density and the availability of physicians and hospital facilities, demonstrating or bearing upon the adequacy of emergency medical services in the State) which reflects the needs of such State and its political subdivisions for improved emergency medical services relative to the corresponding needs in other qualified States.

(b) Funds made available to a qualified State with respect to any fiscal year under subsection (a) shall be disbursed by the appropriate agency of such State to eligible communities as defined in section 8, in accordance with the State's emergency medical services program and on such additional terms and conditions (consistent with such program) as such agency deems appropriate, for the development, operation, and improvement of qualified emergency medical service systems. Provided, however, funds shall not be utilized to duplicate or compete with any existing private enterprise for emergency ambulance service that meets the standards established by the Director and is satisfactorily providing services within the purposes of this Act.

(c) Under regulations prescribed by the Director, any funds which have been disbursed by a State to a community with respect to any fiscal year for the development and operation of an emergency medical service system, and which remain unexpended and unobligated, may be withdrawn from such community (and redistributed to other communities in that State), if the State administrator as referred to in section 7 (b) deems the withdrawal of such funds warranted on the basis of subsequent inspections made or information received, Funds allocated by the Director to any State for any fiscal year under subsection (a) which remain unexpended and unobligated may be withdrawn from such State and redistributed by the Director to other qualified States.

QUALIFICATION OF STATES

SEC. 7. In order for a State to qualify for assistance under section 6, the Governor of the State (or the State health officer, if designated by the Governor) shall submit to the Director a State plan for comprehensive emergency medical services, and the Director must approve the plan. Such a plan must—

(a) Designate the appropriate State health agency (hereinafter referred to as the "designated State agency") as the sole agency for the administration of the emergency medical service program within the State;

(b) Provide for the appointment by the Governor of an administrator (hereinafter referred to as the "State administrator") who shall direct the activities of the designated State agency and who shall disburse funds in accordance with the provisions of this Act.

(c) Provide for the establishment of a State Emergency Medical Service Advisory Council, pursuant to the provisions in section 14, to consult with the designated State agency in carrying out the State plan;

(d) Provide for financial assistance to communities for the establishment and operation of emergency medical services, and the improvement of existing emergency medical services, pursuant to plans which include reasonable assurance of the establishment of qualified, emergency medical service systems within such communities.

(e) Provide for a program of collection preparation and dissemination to the general public within the State of information on availability and accessibility of emergency medical services in the State.

(f) Provide for a system of inspection and periodic evaluation of the quality of services performed by communities receiving assistance under this Act; and

(g) Provide for reports by the designated State agency to the Director, as the Director may by regulations direct, on the administration of the State's emergency medical service program under this Act.

COMMUNITY QUALIFICATION FOR ASSISTANCE

SEC. 8. (a) In order for a community to qualify for financial assistance under this Act—

(1) The community must make application to the designated State agency in its State for financial assistance and submit therewith a plan for the development and operation of an emergency medical service system, or the improvement of an existing system, and establishment of a qualified emergency medical service system in the community.

(2) The community application and plan shall be in such form as the designated State

agency may by regulations prescribe and shall contain reasonable assurance of the establishment of a qualified emergency medical service system.

(3) The community application and plan must be approved by the designated State agency within the provisions in subsection (b).

(b) Before any application and plan referred to in subsection (a) may be approved by the designated State agency—

(1) The State Comprehensive Planning Agency, and the local health planning agency, if any, and the State Emergency Medical Service Advisory Council must be given an opportunity to review such application and plan and to submit its recommendation respecting approval thereof to the designated State agency for its consideration.

(2) In the evaluation of any application and plan for approval under this subsection, consideration shall be given to the importance of linking together, in a regional system, emergency medical services in rural and small communities which do not have the necessary resources to develop and support their own qualified emergency medical service systems, and the adequacy of the community plan to meet the needs of the community; and the State and local medical societies and other appropriate professional and voluntary health agencies in the area to be served shall be consulted.

PAYMENTS TO COMMUNITY

SEC. 9. (a) The designated State agency shall make payments to a community, for the purpose of this Act, only under the following conditions:

(1) Such community meets the conditions of eligibility under section 8.

(2) The State administrator has, on the basis of reports submitted by the community along with its application for funds, and onsite inspection, review, and other information and data which the Director may deem necessary, specifically approved any such payment as suitably contributing to the achievement of the plan for a qualified emergency medical service system.

(b) Payments to a community under this section may be made with respect to any fiscal year for the development and operation, and the improvement of any component or components of a qualified emergency medical service system (including the purchase of new equipment for these purposes) in an amount not to exceed 75 per centum of costs incurred therefor by the community during a fiscal year; and payments to such a community may be continued in an amount not to exceed 50 per centum of such costs incurred by such community during the next succeeding fiscal year, and in an amount not to exceed 25 per centum of such costs incurred by such community during the second succeeding fiscal year.

(c) (1) Whenever the State administrator, after reasonable notice and opportunity for hearing to a community, finds that a community is not adequately performing pursuant to the emergency medical service plan which he approved as a condition of eligibility for assistance under section 8(c), he may deny any further payments to the community under this Act. He shall give the community notice of any such denial and state a reasonable time to correct the condition as a basis of reinstatement of payments. If the condition is not corrected within the time stated, or within any extension of time which may be granted by the State administrator, the State administrator may withdraw the approval of financial assistance to the community under this Act, and shall give notice of any such action to the community. Any determination by the State administrator under this subsection shall be subject to appeal by the community to the Director within thirty days following notice thereof.

(2) On appeal duly made from a determination of the State administrator under subparagraph (1), the Director shall have authority to confirm, reject, or modify the determination of the State administrator, and shall within thirty days following such action of appeal make a determination in the matter and give notice thereof to the community.

(3) The community shall be entitled, further, to court review of the Director's determination under subparagraph (2) by commencing an action in the Federal district court for the district in which the community is situated within thirty days following notice of the Director's determination.

ESTABLISHMENT OF STANDARDS FOR OPERATION OF EMERGENCY MEDICAL SERVICE SYSTEM

SEC. 10. The Director shall establish, keep current, and from time to time publish standards to govern the operation of an emergency medical service system. Such standards shall be designed to insure that such services are provided and available on the widest possible basis, and shall include (without being limited to) standards and minimum requirements for:

(a) Emergency medical service equipment, including:

(1) type of emergency ambulance and related rescue vehicles, including mobile intensive and coronary care units;

(2) type and amount of rescue resuscitation and life support equipment to carry onboard ambulance vehicles;

(3) radio or radio-telephone equipment for communication between ambulance and hospital.

(b) Licensure by States of ambulance service providers based upon periodic inspection of such providers' vehicles and equipment and periodic review of the training level of its presonnel and the adequacy of its dispatching and communications system.

(c) Communications and reporting, including:

(1) establishment of a universal emergency telephone number;

(2) ambulance to hospital communications, which tie in to other public service agencies for daily and disaster radio communications;

(3) establishment of methods and standards for interregional emergency communication, including radio, microwave relay, and other technology;

(4) establishment of emergency medical service information and data retrieval systems, including telemetry, biomedical data relays and human intellect augmentation systems;

(5) filing of reports on emergency rescue and ambulance services and the integration of these reports with patient emergency care records;

(d) Levels of adequate liability insurance to cover any ambulance operations.

(e) The performance of training, advisory functions, and quality control by physicians designated as responsible for the medical supervision of ambulance services, including standards for training curriculums.

(f) Facilities and routing:

(1) establishment of emergency medical services operations centers;

(2) categorization of emergency medical services capabilities;

(3) establishment of methods for marking the location of emergency medical facilities and the establishment of routes thereto.

(4) physicians and personnel back-up by a hospital of its emergency department and adequate in-house back-up with special unit beds.

FINANCIAL ASSISTANCE FOR INITIAL PURCHASE OF EQUIPMENT

SEC. 11. (a) In addition to providing financial assistance for the development and operation or improvement of a qualified emergency medical service system, the Director is authorized, subject to the conditions in subsection (b), to assist in the establishment of new ambulance services and new emergency departments in any political subdivision or regional combination in a qualified State by making grants to a subdivision or combination for—

(1) The initial purchase of ambulance vehicles, equipment, and communication systems to be used in the provision of ambulance services by or under the supervision and auspices of an officer of such political subdivision, and

(2) acquisition of equipment for emergency departments and special units in rehabilitation areas (but not for the construction of new facilities).

Such special grants shall be limited to designated items by the Director and shall be made only with respect to purchases approved by the Director, after recommendation for approval by the State administrator.

(b) A grant under this section shall be in an amount not exceeding 50 per centum of the costs of the purchase of equipment involved, and shall be made only to a community which demonstrates to the satisfaction of the Director, after recommendation of the State administrator, that, with the acquisition of such equipment, it will rapidly be able to provide ambulance services or emergency departments which can be integrated into a qualified emergency medical service system.

TRANSFER OF EMERGENCY MEDICAL SERVICES PROGRAM OF THE FEDERAL GOVERNMENT TO THE EMERGENCY MEDICAL SERVICES ADMINISTRATION

SEC. 12. (a) All functions, powers, and duties of the Secretary of Transportation and the National Highway Traffic Safety Administration relating to emergency medical services (standard numbered 11) which are being exercised under, in connection with, or as a part of the uniform standards for State highway safety programs are transferred to and vested in the Secretary of Health, Education, and Welfare, to be exercised and carried out by him through the Director and the facilities and other personnel of the Administration.

(b) Within one hundred and eighty days of the effective date of this Act, the President may, in addition to the functions, powers, and duties transferred by subsection (a), transfer to the Secretary any functions, powers, and duties relating to emergency medical services which are being exercised by any other Federal departments or agencies.

(c) So much of the positions, personnel, assets, liabilities, contracts, property, records, and unexpended balances of authorizations, allocations, and other funds of the Secretary and the agencies noted, as were employed, held, used, or available for use exclusively or primarily in connection with the functions, powers, and duties transferred by subsection (a) or (b) shall be transferred to the Administration along with such functions, powers, and duties.

(d) The transfers under subsections (a), (b), and (c) shall be made in accordance with such regulations as the Director of the Office of Management and Budget may prescribe to carry out this section.

(e) With respect to any function, power, or duty transfered by subsection (a) and exercised after the date of the enactment of this Act, any reference in any law, document, or record to the previous governmental program shall be deemed as a reference to the Director and the Administration.

APPLICATION OF STANDARDS TO FEDERAL PROGRAMS

SEC. 13. (a) The standards established by the Director under section 10 shall apply to and govern the operation of all ambulances and other emergency medical services, except those ambulances and services operated under the auspices of the Department of De-

fense, which are provided or assisted in any way under Federal law or under programs established, carried on, or supported under Federal law.

(b) The Director shall consult with and provide technical and other advice and services to the heads of the various Federal departments and agencies having jurisdiction over programs or activities involving the provision of ambulance or other emergency medical services or the provision of assistance in any form, directly, or indirectly, to entities furnishing such services, in order to insure that the requirements of this section will be met and that all such programs and activities of the Federal Government will be effectively coordinated with a view to the widest possible achievement of the purpose of this Act.

STATE EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

SEC. 14. (a) The composition of the State Emergency Medical Services Advisory Council established in accordance with the State plan submitted under section 7 shall include representatives of providers of health services, including medical societies, hospital administrators, nursing groups, ambulance services, local chapters of voluntary health services; public agencies, including the fire and police departments, hospital departments (and medical examiners and coroners), health planning agencies, and local government; community leaders representing civic and service clubs, traffic and highway safety groups, telephone companies, and public utilities, and other groups, including the news media, which would have an interest in emergency care.

INTERAGENCY COUNCIL

SEC. 15. There is established an Interagency Council to provide for, communication and exchange of information that is necessary to maintain the necessary coordination and effectiveness of emergency medical service programs and activities of all Federal agencies and developments that are involved in such programs. The Council shall consist of an Assistant Secretary of the Department of Defense, the Department of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Labor, and the Department of Transportation, the Chief Medical Director of the Veterans Administration, the Deputy Director of the Office of Emergency Preparedness, and the Deputy Administrator of the Health Services and Mental Health Administrator, who shall serve ex officio. The Secretary or his designee shall serve as Chairman of the Council and the Council shall meet at the call of the Chairman, but not less often than four times a year.

NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COMMITTEE

SEC. 16. (a) There is established a National Emergency Medical Services Advisory Committee which shall advise, consult with, and make recommendations to the Director with respect to overall planning and policy and the objectives and priorities for all emergency medical services. Committee shall consist of sixteen members appointed by the President who shall be persons who by virtue of their education, training, or experience are qualified to carry out the functions of members of the Committee. Of the members so appointed, four shall be officials of the State or local governments or governmental agencies who are actively engaged in emergency medical services, four shall be doctors of medicine, and the remainder shall be persons who are representative of the ambulance services and others who have shown expertise in emergency medical services and have special knowledge of nursing, transportation, consumer needs and desires, hospital facilities, and educational and manpower development. The President shall designate the Chairman of the Committee and the Committee shall meet at the call of the Chairman but not less than four times a year.

(b) Members of the Committee (other than members who are full-time officers or employees of the United States) shall, while serving on business of the Council, be entitled to receive a per diem allowance at rates not to exceed the daily equivalent of the rate authorized for grade GS-18 of the General Schedule. Each member of the Council, while so serving away from his home or regular place of business, may be allowed actual travel expense and per diem in lieu of subsistence as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

GENERAL PROVISIONS

SEC. 17. (a) In administering the provisions of this Act, the Director is authorized to utilize the services and facilities of any other agencies of the United States and of any non-Federal public private agencies or institutions, in accordance with agreements entered into between the Director and the heads of such agencies or institutions, on a reimbursable basis or otherwise.

(b) The Director is authorized to conduct or contract with others to conduct studies and research projects on the problems and conditions of emergency medical care. Such studies or projects shall particularly be directed toward the utilization of technological advances in the improvement of emergency medical services. Such studies shall include (but not be limited to):

(1) planning and development for emergency medical services programs;

(2) establishment and improvement of medical emergency transportation systems, including at least one stateside system, using aircraft, helicopters, and radio-equipped vehicles;

(3) providing for cooperative use of equipment and personnel of the Armed Forces for medical emergency transportation assistance;

(4) design, development, and demonstration of advanced methods of, and equipment for, medical emergency transportation communications;

(5) development and operation of training programs for emergency medical service personnel.

(c) The Director, with the approval of the Secretary, shall prescribe such regulations as may be necessary or appropriate to carry out this Act.

(d) The Director shall submit to the Secretary for transmittal to the President and the Congress a full and complete annual report on activities under this Act, including such recommendations as he may consider necessary or desirable for legislative or administrative action to improve and make more effective the program under this Act.

(e) The Secretary of each military department (or his designee) is authorized to enter into agreements with communities under which equipment and personnel of the armed forces under the Secretary's jurisdiction may, to the extent it will not interfere with the primary mission of the armed forces, provide transportation and other services in emergency conditions. If the Coast Guard is not operating as a service of the Navy, the Secretary of Transportation (or his designee) may enter into such agreements for the provision of such services by Coast Guard equipment and personnel.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. (a) For grants under sections 6 and 11, there is authorized to be appropriated the sum of $150,000,000 for the fiscal year ending June 30, 1973, the sum of $150,000,000 for the fiscal year ending June 30, 1974, and the sum of $150,000,000 for the fiscal year ending June 30, 1975.

(b) For other expenses incurred by the Director and the Administration in carrying out this Act, there is authorized to be appropriated the sum of $50,000,000 for the fiscal year ending June 30, 1973, the sum of $60,000,000 for the fiscal year ending June 30, 1974, and the sum of $70,000,000 for the fiscal year ending June 30, 1975.

(c) Any amounts appropriated pursuant to this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1975.

By Mr. HATFIELD:

S. 657. A bill to designate the Hells Canyon National Forest Parklands Area, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

HELLS CANYON NATIONAL FOREST PARKLANDS AREA

Mr. HATFIELD, Mr. President, today I introduce for appropriate reference legislation to create the Hells Canyon National Forest Parklands Area.

This legislation, which Congressman AL ULLMAN has introduced in the House, represents what I believe is a well-thought-out approach to the issues we must consider in dealing with the Hells Canyon of the Middle Snake River.

First, this bill precludes the construction of dams in the area, while preserving the upstream water rights. This resolves an issue which has been before the Senate for several years. I have earlier sponsored with the distinguished senior Senator from Idaho (Mr. CHURCH) and his distinguished former colleague, Mr. Jordan, legislation to establish a moratorium on dam construction on the Middle Snake River. The measure passed the Senate unanimously on two occasions, but failed to receive action in the House.

The second major issue relating to this area is that of land use. Last year, the Governors of Oregon, Idaho, and Washington joined with several members of the respective congressional delegations in supporting the purchase by the Forest Service of some 12,000 acres of privately owned lands along the river. I was pleased to work within the Senate Appropriations Committee to add $4 million to the Forest Service budget specifically for this purpose. Our motivation in doing so was to prohibit commercial development of this unique area. We were successful in this project and the Forest Service is presently taking steps to purchase the lands.

The question remains, however of how the canyon lands and the surrounding area are to be managed.

This legislation would designate 726,400 acres as the Hells Canyon National Forest Parklands Area, to be administered by the Secretary of Agriculture. The Secretary is directed in by the legislation to develop a comprehensive management plan for the entire area within 3 years. A 270,000-acre roadless area, including the canyon face of the Snake River and the roadless area in the Seven Devils Scenic Area would be studied for wilderness suitability. The legislation provides for public participation in the planning process.

The Snake and Imnaha Rivers would be managed as wild and scenic rivers, though not placed under that legislative authority. Subject to valid existing rights, mineral entry would be prohibited.

Mr. President, I believe this bill provides the flexibility necessary for the management of this diverse area and I think it deserves the careful consideration of this body I realize that several of my colleagues are drafting legislation which also deals with the management of the Hells Canyon Area and I have been in contact with them as these proposals have been developing. I also intend to work with the citizens of northeastern Oregon, who have a vital interest in such legislation. I am confident that we can enact legislation which will benefit the people of Oregon, the people of Idaho, and all Americans in preserving this magnificent canyon.

Mr. President, I ask unanimous consent that the text of the legislation I am introducing today be printed in the RECORD.

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

S. 657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to provide for the public outdoor recreation use and enjoyment of certain spectacular canyon and water areas, forested areas, fresh water lakes, and other recreational features and facilities in the States of Idaho and Oregon by present and future generations and the conservation of scenic, scientific, fish and wildlife, historic, geologic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Hells Canyon National Forest Parklands (hereinafter referred to as "the Parklands"), comprising approximately 726,400 acres. The boundaries of the recreation area shall be those shown on the map entitled "Proposed Hells Canyon National Forest Parkland Area" dated January, 1973, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture.

SEC. 2. The Administration, protection, and development of the Parklands area shall be by the Secretary of Agriculture (hereinafter called the "Secretary"), in accordance with the laws, rules, and regulations applicable to the national forest system, in such manner as in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, fish and wildlife, geologic, historic, and other values contributing to public enjoyment; and (3) such management, utilization, or disposal of natural resources including, but not limited to the production and harvesting of timber and the grazing of livestock as in his judgment will promote or are compatible with, and do not significantly impair the purposes for which the Parklands area is established. The Secretray shall not within the area delineated as to be managed without public roads on the map referred to in Section 1 of this Act, construct or permit the construction of any public road, or permit the harvesting of timber, except as may be necessary for protection of the public health and safety.

SEC. 3. Within three years after the enactment of this Act, the Secretary shall with provision for appropriate public participation in the planning process, (a) develop a comprehensive management plan for the entire Parklands area. Said plan shall provide for a broad range of land uses and recreation opportunities, including areas with potential for management as wilderness, and areas to be managed for roadless and/or primitive backcountry, or intensive recreation and shall include provisions for motorized access to and within areas not delineated to be managed without public roads. Further, the comprehensive management plan shall prescribe management controls, indicate boundaries of any special management areas, indicate type and amount of access, and set forth other protection, management and development requirements.

(b) review those areas depicted on the map referenced in Section 1 of this Act as "Roadless" and shall report to the President, in accordance with subsection 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (d)), his recommendation as to the suitability or nonsuitability of any area within the above area for preservation as wilderness, and designation of any such area as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 4. (a) Within one year after the effective date of this Act, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the Parklands area and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made.

(b) The boundaries of the Wallowa-Whitman and Nez Perce National Forests are hereby extended to include all of the lands not presently within national forest boundaries lying within the Parklands area as described in accordance with section 1 of this Act. Notwithstanding any other provision of law, any Federal property located within the Parklands area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act.

SEC. 5. (a)(1) The FPC shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work under the FPA (41 Stat. 10633), as amended (16 U.S.C. 791a et seq.), on or directly affecting the presently free-flowing portions of the Snake and Imnaha Rivers within the Parkland area and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resource facility that would have a direct and adverse effect on the values for which such river segments are protected, as determined by the Secretary.

(2) It is intended that no provision of this Act shall in any way limit, restrict, or conflict with present and future uses of the waters of the Snake River and its tributaries upstream from the boundaries of the Parklands area, for beneficial purposes, whether consumptive or non-consumptive, now or hereafter existing, including waters used for domestic, municipal stockwater, irrigation, mining, power, or industrial purposes.

(3) Any disputes between water use rights protected by subsections (1) and (2) above shall be resolved in accordance with established principles of law.

(b) Those segments of the Snake and Imnaha Rivers included in the Parklands area and presently free flowing shall be preserved in a free-flowing condition and shall be administered in such manner as to protect and enhance natural values described in Section 5(a) above, without insofar as is consistent therewith, limiting other uses that do not substantially interfer with public use and enjoyment of these values.

(c) The jurisdiction of the States and the United States over waters or any stream included in the Parklands area shall be determined by established principles of law. Under the provisions of this Act, any taking by the United States of water rights which are vested under either State or Federal law at the time of enactment of this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(d) Further that the Secretary in consultation with other concerned State and Federal agencies is authorized to control and regulate the amount and type of watercraft use on those segments of the Snake and Imnaha Rivers within the Parkland necessary to accomplish the purposes of this Act.

(e) Further, as soon as practicable, the Secretary shall prescribe management controls and make provision for facilities necessary for the health and safety of users of the Snake and Imnaha Rivers and related adjacent land areas.

SEC. 6. The Secretary shall make and publish regulations setting standards for the use, subdivision and development of privately owned property within the boundaries of the Parklands area. Within the Parklands area the Secretary is authorized to acquire lands, waters, or other property, or any interest therein, in such manner as he considers to be in the public interest to carry out the purposes of this Act. Any lands, waters, and interests therein owned by or under the control of the States of Idaho and Oregon or any political subdivisions thereof may be acquired only with the consent of such States or political subdivisions. Moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands, waters, and interests therein for the purposes of this Act. Lands acquired by the Secretary or transferred to his administrative jurisdiction within the Parklands area shall become parts of the Parklands area and of the national forest within which they are located.

SEC. 7. The Secretary shall permit hunting, fishing, and trapping on the land and waters under this jurisdiction within the Parklands area in accordance with applicable Federal and State laws: *Provided,* That the Secretary, after consultation with the appropriate Ate game commission, may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

SEC. 8. The lands within the Parklands area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. The Secretary of the Interior, under such regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the Parklands area in accordance with the provisions of section 3 of the Act of September 1, 1949 (63 Stat. 683; 30 U.S.C. 192c), and he may permit the removal of leasable minerals from lands or interests in lands within the Parklands area in accordance with the Mineral Leasing Act of February 24, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if the Secretary of Agriculture finds that such disposition would not have significant adverse effects on the administration of the Parklands area: Provided, that any lease respecting such minerals in the Parklands area shall be issued only with the consent of the Secretary of Agriculture and subject to such conditions as he may prescribe.

All receipts derived from permits and leases issued under the authority of this section for removal of nonleasable minerals shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts for national forests. Any receipts derived from permits or leases issued on lands within the Parklands area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall

be disposed of as provided in the applicable Act.

SEC. 9. The Secretary shall cooperate with the States of Idaho and Oregon or any political subdivisions thereof in the administration of the Parklands area and in the administration and protection of lands within or adjacent to the Parklands area owned or controlled by the States or political subdivisions thereof. Nothing in this Act shall deprive any private owner of land within the Parklands area of any rights to adequate access to such privately owned land by such private owner. Nothing in this Act shall deprive the respective States or any political subdivisions thereof of their right to exercise civil and criminal jurisdiction within the recreation area, or of their right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the Parklands area.

By Mr. GURNEY:

S. 658. A bill to authorize the President to designate the first week in November of each year as "National Art Week." Referred to the Committee on the Judiciary.

Mr. GURNEY. Mr. President, some of the earliest sources of our information of the history of mankind are to be found in prehistoric art. Before there was the written word there was man's conception of the world around him expressed through pictures and sculptures of other creatures. Aristic expressions, Mr. President, are man's first efforts to express his understanding of the world.

Human art has continued, with a wide diversity of its forms and styles. Art is not only the precursor of the written word, it has remained supreme because it can be understood and appreciated without regard to language and culture. It is altogether fitting then, Mr. President, that Congress should take steps to set aside a portion of each year to properly commemorate our appreciation of art, in its many forms.

Therefore, I am today introducing a Senate joint resolution authorizing and requesting the President of the United States to designate the first week in November of each year as "National Art Week." This will provide an opportunity for the many interested groups and organizations properly to recognize and commemorate art and its unique contribution not only to this country but to the world.

I ask unanimous consent that the text of my bill be printed at the conclusion of these remarks.

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

S. 658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the first week in November of each year as "National Art Week," and calling upon the people of the United States and interested groups and organizations to observe such week with appropriate ceremonies and activities.

By Mr. GURNEY:

S. 659. A bill to increase the penalty with respect to offenses involving the commission of a felony while armed with a firearm. Referred to the Committee on Judiciary.

Mr. GURNEY. Mr. President, as a beloved colleague lies stricken by a brutal assailant who robbed then shot him, I send to the desk a bill to strengthen our existing penalties for anyone who uses a firearm to commit any felony for which he may be prosecuted in a court of the United States or carries a firearm unlawfully during the commission of such a felony.

The bill I now introduce provides that the felon who uses a firearm in such a manner shall be sentenced to a mandatory term of imprisonment for not less than 10 nor more than 25 years. This sentence cannot be suspended or probated, nor is it subject to parole or reduction for good behavior. Neither can it run concurrently with any term of imprisonment imposed for commission of the felony itself, except that when a sentence of death is imposed that sentence can be carried out immediately.

The existing law on this subject is found in section 924(c) of title 18, United States Code, a section which in view of the events of last night is clearly inadequate. The present section 924(c) provides that whoever uses a firearm to commit a Federal felony or carries a firearm unlawfully during the commission of such a felony shall be sentenced to an additional term of imprisonment of not less than 1 nor more than 10 years. In the case of a second or subsequent conviction, the additional penalty is a term of imprisonment of not less than 2 nor more than 25 years. Unfortunately, there are a number of defects and inadequacies in the present section 924.

In the first place, there is an ambiguity in the statutory language. The present section 924(c) provides that in the case of a second or subsequent conviction, the 2 to 25 year additional sentence shall not be suspended, nor shall the person be given a probationary sentence, nor shall the term of imprisonment run concurrently with any term of imprisonment for commission of the basic felony. This language indicates that for a first conviction the 1 to 10 year additional sentence for using or carrying a firearm, suspension, probation, parole, or a concurrent sentence would be possible, since expressly excluding these possibilities for the second sentence implies they are not excluded for the first.

More importantly, there is a basic deficiency in the statutory scheme under the existing section 924(c). The thrust of the statute is to provide for an increased sentence for a second conviction under the statute. This type of increased penalty scheme may be adequate for some crimes, but, in my view, it has no place here. The purpose of providing additional penalties for using or carrying a firearm in the commission of a felony is to deter the use of such weapons. To apply the reasoning of increased penalties for subsequent convictions is to sanction "one bite at the apple."

The object of the statute, however, ought to be to provide a stiff penalty for using or carrying a firearm during the commission of a felony, regardless of whether it is a first or second offense. The second victim will take no solace in knowing the criminal will get a greater penalty because he has committed the crime again. Instead, he will wonder just why it was that the penalty for the first offense was so slight as not to prevent the second.

Mr. President, my bill makes no distinction between first and second offenders. Both are equally heinous; both must be deterred if penalties for using or carrying firearms during the commission of felonies are to mean anything at all. Hopefully, by providing for the type of stiff sentence my bill will establish, there will not be a great problem with second offenders.

Parenthetically, my bill provides that the additional penalties do not apply in any case in which the sentence imposed for the basic felony is death. This provision does not reimpose the death penalty for any crime. Rather, it allows for an otherwise lawful death penalty to be carried out without having to wait around for service of an additional penalty of a term of years for using or carrying a firearm. In this respect, it is intended as a technical provision only.

In one final respect, my bill will change the existing law. My bill makes it clear that the additional penalty imposed for using or carrying a firearm is not subject to parole or reduction for good behavior.

Mr. President, last night's tragedy brings home the need for this bill. We have an awesome responsibility as the National Legislature to enact laws calculated to make our streets and cities safe. Reduction of firearms offenses is one sure step to that end. The way to reduce such offenses is by providing the necessary penalties to deter such conduct. During 1972, 108 police officers were killed by the use of firearms. We owe these Americans, as well as all Americans, the reassurance of strong laws for their protection.

The available statistics on the use of firearms to commit crimes clearly indicate the necessity for strong legislation against their use. For example, in testimony last year before the Juvenile Delinquency Subcommittee, Commissioner John Nichols of the Detroit Police Department recited how handguns have increasingly come to be used in the commission of homicides in Detroit, as shown by the following table.

Year	Homicide total	Handgun	Percent total
July 1971	305	184	60.3
1970	495	297	60.0
1969	439	268	61.0
1968	388	237	60.9
1967	281	127	45.2
1966	214	101	47.2
1965	188	68	36.3
1964	125	40	32.0
1963	125	51	40.8

These increases have not been limited to Detroit, but rather are nationwide figures. In Chicago the overall homicide rate doubled between 1965 and 1970, while the rate of homicides by firearms increased by 169 percent.

Between 1964 and 1971, armed robberies such as that which so tragically struck our colleague increased by 230 percent, with about 63 percent of these robberies involving firearms; 65 percent of the murders committed in this country involved firearms, and in 1971, 125

police officers were killed, 74 percent of them by the use of firearms. The prevalence of the use of firearms in the commission of violent crimes is very clear. We must enact legislation to curb it.

I request unanimous consent that my bill be printed at the conclusion of these remarks.

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

S. 659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 924(c) of title 18, United States Code, is amended to read as follows:

"(c)(1) Whoever—

"(A) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

"(B) carries a firearm unlawfully during the commission of any felony for which he may be prosecuted in a court of the United States,

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than ten years or more than twenty-five years. With respect to such additional sentence, the court, notwithstanding any other provision of law, shall not suspend such sentence or impose a probationary sentence, and the provisions of section 4202 and chapter 309 of this title shall not apply. Such additional sentence so imposed shall not run concurrently with any term of imprisonment imposed for the commission of such felony.

"(2) The provisions of paragraph (1) of this subsection shall not apply in any case in which the sentence imposed with respect to any such felony is death.".

By Mr. GURNEY (for himself and Mr. TOWER):

S. 660. A bill to authorize and request the President to issue annually a proclamation designating the month of February of each year as "American History Month." Referred to the Committee on the Judiciary.

Mr. GURNEY. Mr. President, by studying what has transpired in the past, it is easier to understand what is occurring in the present. Americans are better able to understand and appreciate their country by studying its history. For this reason it is important to take appropriate steps to encourage our fellow citizens to engage in a study of our American history. One significant action this Congress can take to so encourage our fellow Americans to study our history is to enact legislation setting aside annually 1 month in which interested groups can join in encouraging others to appreciate and study American history. Therefore, on behalf of myself and the distinguished Senator from Texas (Mr. TOWER) I am introducing today a bill to designate February of each year as "American History Month."

During this month all Americans should be encouraged to look to our past, not merely to instill within each of us a pride of country but better to enable us to act in the future with the dignity and compassion which is our national characteristic.

I request unanimous consent that the text of my proposed bill be printed at the conclusion of these remarks.

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

S. 660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue annually a proclamation designating the month of February of each year as "American History Month", and calling upon the people of the United States and interested groups and organizations to observe that month with appropriate ceremonies and activities.

By Mr. JACKSON:

S. 662. A bill to authorize the Secretary of the Interior to establish and administer a program of direct Federal employment to improve the quality of the environment, the public lands, Indian reservations, and commonly owned and shared resources through a program of recreational development, reforestation, and conservation management, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I introduce for appropriate reference the "Natural and Human Resources Restoration and Conservation Act of 1973."

The purpose of this measure is to provide direct Federal employment for unemployed workers in the country's national parks, forests, recreation areas, and public lands. It builds upon the proven and tried concepts found in the Civilian Conservation Corps of the 1930's. Priority is given to those areas of the Nation which have high levels of unemployment and a need for more intensive timber, recreation, and resources management on Federal lands and on Indian Reservations.

The act builds upon the automatic "trigger" concept found in the "Emergency Employment Act of 1971." First, the Secretary of the Interior is authorized to establish a permanent National Environmental Services Corps. The permanent Corps would consist of a nucleus of appropriate administrative and supervisory personnel.

Second, when national unemployment levels exceeded 4½ percent the Secretary is directed to enlarge the Corps by hiring temporary personnel for the period of time unemployment is high. For each one-half percent gain above a national unemployment level of 4½ percent, the Secretary is authorized to hire an additional 50,000 Corps members.

Third, the Secretary is authorized to hire as many as 200,000 Corps members to work in areas of the country experiencing substantial or persistent unemployment—levels of 6 percent or more—without regard to the national unemployment level.

Persons serving in the Corps on a temporary basis would receive benefits and salary equivalent to other temporary or short-term Federal employees doing work of a similar nature.

The act has two important national purposes. The first is to deal with the tremendous backlog of resources conservation and restoration work on the Federal lands. There is a high priority need in many parts of the Nation to replant forests, to eliminate disease, to prevent erosion, to abate pollution, to guard against fire, to protect our parks, to add new facilities—trails, bridges, camping areas—in our recreation areas, to enhance watershed management, and to make the beauty and grandeur of our public lands accessible to the American people.

The second purpose this measure serves is that it provides an alternative to welfare and unemployment assistance in the form of important, self-respecting work for American working men and women who are the victims of an economic system which at times like the present does not have jobs for skilled, conscientious workers.

One of the most important features of this proposal is that it does not require a great deal of startup time. The work is there. Federal foresters, park rangers, and land managers in regional offices all across the country have on their desks long lists of specific work assignments which need to be done. Most of this work is planned and programed. It does not require expensive machinery. It requires only people to do the job and the money to pay them.

Natural resource management and environment improvement program needs now stand at an alltime high. Consider for a moment these statistics on the immediate needs of our conservation and environmental protection agencies.

The U.S. Forest Service currently has over 5 million acres of highly productive forest land awaiting replanting. Another nearly 12 million acres are not producing adequately for lack of proper forest management. Another 3 million acres are essentially unproductive and will remain so until erosion is curbed. A conservative estimate by Forest Service officials reveals that to reduce their backlog of essential conservation work would require 240,000 man-years of labor.

The manpower needs of the Bureau of Land Management, the National Park Service, the Bureau of Sports Fisheries, the Bureau of Indian Affairs, and the Environmental Protection Agency to perform essential work on public lands and facilities are also very great.

The work is not glamorous. But it is good clean, hard outdoor work. The Environmental Services Corps means that the Federal Government can give a man a choice between welfare dole and self respect; between hopeless days of frustration and the opportunity to do meaningful work that a man can take pride in.

The difference in the public cost of creating these jobs and the public cost of the welfare and unemployment compensation that will be incurred if jobs are not created is de minimus. But the difference in terms of national benefit and in terms of human dignity is immense.

Mr. President, I would like to quote from the final report to the Secretary of the Interior on the Civilian Conservation Corps program of the Department of Interior. This 1944 report, as presented to Secretary Harold L. Ickes by Conrad L. Wirth, Departmental Representative

on the Advisory Council, CCC, states in part:

It is recommended that an organization similar to the Civilian Conservation Corps be established on a permanent basis and designated the "Conservation Corps", and that such an organization be a joint enterprise of the Federal departments and agencies administering and protecting the natural resources of the nation. The purpose of the Corps should be to provide a pool of manpower and funds for those agencies charged by Congress with the development, protection, and use of the natural resources of the United States. The main objectives should be:

1. Development and protection of the natural resources of the country for the use and enjoyment of the present and future generations:

2. Teaching the workers and others the real necessity and the importance of proper use of the natural resources;

3. The coordination and integration of a nationally planned program through a uniform and respected work organization; and

4. This to be done without interference with the objectives and responsibilities of the various member agencies as charged by Congress.

There was in 1933, and there still is, a real need to give nation-wide attention to the conservation of our natural resources. The natural resources are so vital to existence and progress of any nation that it seems reasonable to give them constant and continuing attention and protection.

The general type of program as planned and executed by the CCC was well received by all. Perhaps one of the greatest accomplishments of the Civilian Conservation Corps was that it brought to the minds of the people of this country the need and value of a sound, active conservation program.

The CCC not only taught the youth of our nation in a very practical way the meaning and value of our natural resources, but helped to restore and strengthen the nation's human resources.

Working in the open, with nature, brings optimum beneficial results to an individual which are almost impossible to obtain otherwise. It builds the body and the mind; it teaches the basic principles of existence; and it creates an understanding of what must be done to protect and properly use natural resources. A future permanent Civilian Conservation Corps must take into consideration these basic facts which should be made known to every home and command the respect of all people through its teachings and accomplishments.

The objectives of and the values embodied in the Civilian Conservation Corps are still valid today. This Nation would be well advised to follow the advice of Secretary Ickes and insure the continuance of such values and objectives. We should act now to create the National Environmental Service Corps. Our Nation's environmental, economic, and social well-being will be enhanced by the passage of the Natural and Human Resources Restoration and Conservation Act of 1973.

Mr. President, I ask 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. 662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural and Human Resources Restoration and Conservation Act of 1973".

FINDINGS AND PURPOSE

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

(1) there is a growing backlog of necessary and essential work which must be performed if the quality of the Nation's national forests, parks, recreation areas, game refuges, and public lands, and Indian reservations are to be maintained and improved;

(2) tasks which must be performed include reforestation, fire prevention, protection against floods and soil erosion, disease control, pollution abatement, trail construction, road maintenance and improvement, and development of recreational facilities.

(b) The Congress further finds that—

(1) parallel with the need to improve the quality of the Nation's environment and to protect public resources, the country is experiencing critically high levels of unemployment in various regions, and many of the people unemployed have valuable skills which could be utilized to restore, protect, and improve the management of the environment, the public lands, and other shared and common resources;

(2) the United States Government has a responsibility to provide direct Federal employment to fill the growing backlog of unmet national conservation needs and, at the same time, provide programs of permanent and transitional employment to achieve important public purposes;

(3) implementation of a National Environmental Services Corps program and building upon the highly successful experience of the Civilian Conservation Corps will reduce dependency upon welfare and unemployment assistance to meet essential human needs, and will advance the national interest in a stable economy and full employment by providing important and meaningful public jobs during times of high unemployment in the country at large or in any region of the country.

POLICY

SEC. 3. (a) The Congress hereby reaffirms that the national policy of full employment declared in the Employment Act of 1946 continues to be a fundamentally sound and socially enlightened national policy, and that it is the responsibility of the Federal Government to use all practicable means consistent with its needs and obligations and other essential considerations of national policy, with the assistance and cooperation of industry, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power.

(b) It is the purpose of this Act to provide a Federal natural resource management program designed to:

(1) relieve and alleviate the social distress and human indignity resulting from unemployment by providing a permanent program of direct employment by Federal land and resource management agencies and by expanding direct employment during times of high unemployment in the Nation or in various regions of the country; and

(2) achieve the goals and objectives declared in the National Environmental Policy Act of 1969 (P.L. 91–190) and fulfill the responsibilities of this generation as trustee of the environment for succeeding generations by a work program of reforestation, pollution abatement, disease eradication, prevention of floods and soil erosion, fire protection, watershed management enhancement, construction of new recreation facilities, trail and road development and maintenance, wildlife and sports fisheries management and other activities to improve the quality of the environment.

NATIONAL ENVIRONMENTAL SERVICES CORPS

SEC. 4. There is hereby established the National Environmental Services Corps (hereinafter referred to as the "Corps"). The Secretary of the Interior (hereinafter referred to as the "Secretary") shall be responsible for management and administration of the Corps program. In carrying out his duties under this Act, the Secretary shall consult with the heads of other agencies and departments of the Federal Government. All agencies of the Federal Government are directed to cooperate with and to assist the Secretary in the development and administration of the Corps program.

EMPLOYMENT LEVELS

SEC. 5. (a) There are hereby authorized to be appropriated for carrying out the purposes of this Act $250,000,000 annually for establishment and administration of the permanent Corps program and such sums as are necessary to enlarge the Corps to meet the employment conditions set out in subsection (c).

(b) The permanent Corps shall consist of a national office and appropriate regional and subregional offices, and shall be responsible for providing employment opportunities in natural resource management on Federal lands on a continuing basis up to the level of the appropriation authorization set forth in subsection (a) of section 5. In addition, the permanent Corps shall be responsible for administration, supervision, and training of temporary Corps members when Corps employment is expanded to meet the employment conditions set forth in subsection (c) of section 5.

(c) The Secretary is authorized, out of funds appropriated to carry out the purposes of this Act, to expand employment in the Corps program in accordance with the following clauses:

(1) by one hundred thousand Corps members when the Secretary determines that the rate of national unemployment (seasonally adjusted) equals or exceeds 4½ per centum for three consecutive months prior to such determination;

(2) by fifty thousand Corps members for each increment of one-half of 1 per centum by which the Secretary determines that the average rate of national unemployment (seasonally adjusted) for three consecutive months prior to any such determination exceeds the rate specified in clause (1); and

(3) without regard to the determinations required by clauses (1) and (2), by up to two hundred thousand Corps members to work in regions of the country categorized as areas of "substantial unemployment", "persistent unemployment", or "concentrated unemployment or underemployment" in the Department of Labor's monthly Bulletin on "Area Trends in Employment and Unemployment".

(d) Funds made available to the Secretary pursuant to this section for the employment of Corps members shall, insofar as possible, be apportioned on an equitable basis among States and, within each State among, local areas, including Indian reservations. To the extent practicable, such funds and employment opportunities shall be apportioned on the basis of—

(1) relative numbers of unemployed;

(2) severity of unemployment in each area; and

(3) relative need of the area for intensified management, development, and conservation of lands under Federal jurisdiction.

SECRETARIAL DUTIES

SEC. 6. (a) The Secretary, after consultation with the heads of other Federal land and resource management agencies, shall—

(1) determine the areas under Federal jurisdiction which are appropriate for carrying out programs using employees of the Corps;

(2) determine the rates of pay, hours, and other conditions of employment in the Corps: *Provided*, That members of the Corps shall be paid the prevailing rates of pay, as appropriate, for persons permanently or temporarily employed by the Federal land management agencies, and all persons employed in the Corps will be assured of workmen's compensation, health insurance, and other benefits at the same levels and to the same extent as other permanent and temporary employees of Federal land management agencies;

(3) provide for such transportation, lodging, subsistence, and other services and equipment as he may deem necessary or appropriate for the needs of members of the Corps in their duties: *Provided*, That whenever economically feasible, existing but unoccupied Federal facilities, including military facilities, shall be utilized for the purposes of the Corps where appropriate and with the approval of the Federal agency involved;

(4) promulgate regulations to insure the safety, health, and welfare of the Corps members; and

(5) advise every participant in the Corps program, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) In expanding the Corps to meet national resource and environmental management goals and to provide new employment opportunities pursuant to subsection (b) of section 5, the Secretary shall first determine that the Corps program—

(1) will result in an increase in employment opportunities over those which would otherwise be available;

(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits);

(3) will not impair existing contracts for services or result in the substitution of Federal or other funds in connection with work that would otherwise be performed; and

(4) will not substitute jobs of Corps members for existing federally assisted jobs.

PERSONS ELIGIBLE

SEC. 7. Any person who is unemployed and who desires and is available for work and who is physically able to perform the available jobs shall be eligible for employment in the National Environmental Services Corps. Any person who is underemployed in that their present employment is not providing sufficient income to enable such persons and their families to be self-supporting without welfare assistance shall also be eligible for employment in the Corps.

TERMINATION OF CORPS EMPLOYMENT

SEC. 8. In the administration of this Act the Secretary shall make every effort to provide training and other assistance to temporary members of the Corps provided employment pursuant to section 5, which will enable them to obtain permanent private or public employment. When the rate of national or area unemployment declines below the standards set forth in subsection (c) of section 5, the Secretary shall make maximum efforts to locate permanent employment or training opportunities not supported under this Act for each Corps member temporarily employed under this Act, and shall gradually phase out the temporary Corps program on an area-by-area basis as is warranted by improved local employment opportunities and the accomplishment of the resource and environmental improvement program on the Federal lands in each such area.

SECRETARIAL POWERS

SEC. 9. (a) The Secretary shall promulgate and publish in the Federal Register such regulations as he determines are necessary for the administration of this Act.

(b) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments in installments and in advance by way of reimbursements, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act.

REPORT

SEC. 10. The Secretary shall transmit an annual report to the Congress setting forth a report of the activities under, an evaluation of the programs authorized by, and relevant data on employment created and public purposes achieved pursuant to this Act.

EFFECTIVE DATE

SEC. 11. This Act shall be effective upon enactment. The determinations to be made under subsection (c) of section 5 shall take into account the rate or rates of unemployment for a period of three consecutive months even though all or a part of such period may have occurred prior to the enactment of this Act.

By Mr. HRUSKA (for himself and Mr. BURDICK):

S. 663. A bill to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes. Referred to the Committee on the Judiciary.

JUDICIAL REVIEW OF CERTAIN ICC ORDERS

Mr. HRUSKA. Mr. President, for myself and the Senator from North Dakota (Mr. BURDICK) I introduce a bill to improve the Federal judicial machinery by amending title 28, United States Code, to change the method for review of decisions of the Interstate Commerce Commission.

The present law governing review of ICC orders, except those for enforcement or for the payment of money, is based on the Urgent Deficiencies Act of 1913. This requries a special three-judge district court, consisting of at least one appeals court judge, to hear ICC cases. Appeal from this three-judge court is made directly to the Supreme Court, bypassing the Circuit Court of Appeals. (28 U.S.C. 1336, 2284, 2321, and 2325.)

The problems with this process are many. First, three-judge district courts, which are also currently required in certain constitutional cases, have received extensive criticism from legal scholars, judges, and attorneys. It is felt that these courts are a waste of judicial manpower, no established procedural and evidentiary rules are applicable to them, and they often produce lengthy delays.

In 1941 Mr. Justice Frankfurter described the three-judge procedure as—

A serious drain upon the federal judicial system particularly in regions where, despite modern facilities, distance still plays an important part in the effective administration of justice. And all but the few great metropolitan areas are such regions. *Phillips* v. *United States*, 312 U.S. 246, 250 (1941).

The specific evils of three-judge courts were brought to our attention during hearings last year. See hearings on S. 1876 before the Subcommittee on Improvements in Judicial Machinery of the Senate Judiciary Committee, part 2, 92d Congress, second session, 731 (1972). At those hearings, chaired by Senator BURDICK, both Chief Judge Henry Friendly of the second circuit and Prof. Charles Wright of the University of Texas Law School urged reform of ICC appeals procedures.

Another problem with the present statute is that appeals are taken directly from the three-judge court to the Supreme Court. This does not give the Supreme Court the benefit of the wisdom of lower appellate review, and it adds directly to the heavy workload of the High Court. The result is that the Supreme Court, without the winnowing effect of the circuit courts, often has to decide seemingly trivial ICC issues. Already this term, the Court affirmed an opinion holding that cooked chicken was an agricultural commodity and thus exempt from ICC regulation. *ICC* v. *Gold Kist, Inc.*, 409 U.S. — (1972). Surely such an issue could likely have been resolved at a level lower than the Nation's highest judicial tribunal.

In another recent ICC case, the Supreme Court heard oral argument and issued its opinion even though the three-judge district court had decided the case without an opinion. The case, *Port of Portland* v. *U.S.*, 408 U.S. 811 (1972), involved complicated facts concerning a railroad acquisition. If such issues were presented to a circuit court, surely they would be discussed and decided in a written opinion, and the Supreme Court would not be required to write the first opinion in the case.

Along with other proposals which have been made to eliminate three-judge courts in most constitutional cases, this bill supports the established principle that the Supreme Court should be free to control its own workload. Reform of ICC appeals along the lines advocated here was urged by Chief Justice Burger in his 1972 state of the judiciary speech delivered to the American Bar Association last August.

In fiscal 1972, there were 52 ICC appeals, one-sixth of all three-judge cases. The number of ICC cases increased 27 percent from 1971, and for the past 10 years there has been an average of 56 ICC cases yearly. Of these cases, it heard argument and wrote opinions in only two instances. The remainder of the cases were affirmed or reversed without opinion. Thus, it appears that direct appeal of these cases to the Supreme Court is inappropriate and no longer necessary.

This bill repeals the Urgent Deficiencies Act as applicable to ICC orders. Under the bill, ICC appeals would be made to circuit courts, with review by certiorari to the Supreme Court. The bill would also change existing law to eliminate multiple suits to challenge a single ICC order that can now be brought simultaneously in different locations, and it would impose a 60-day time limit after the issuance of ICC orders during which appeals must be taken. There is now no time limit for ICC appeals.

A further objective of this proposal is uniformity. The present ICC appeals

structure is unique among Federal administrative agencies. All other appeals of agency orders are governed by procedures similar to those this bill establishes for the ICC. Also, because the circuit courts regularly hear administrative cases, they have developed an expertise in administrative law and regulatory issues that is often lacking in the three-judge district courts that now hear ICC cases.

The measure we introduce today is not new. In March of 1970 I introduced a similar bill at the request of the Department of Justice. See hearings on S. 3597 before the Subcommittee on Improvements in Judicial Machinery of the Senate Judiciary Committee, 91st Congress, second session (1970). In its previous form, the bill had the support of the Administrative Conference, the Judicial Conference, and the American Bar Association, as well as the Department of Justice.

The venue provisions in this bill have been drawn more narrowly than they were in the earlier proposal. The present bill eliminates optional venue in the Circuit Court of Appeals for the District of Columbia and allows for suit only in the circuit court where the petitioner resides or has his principal place of business. This change was made on the recommendation of the ICC and the Administrative Conference. There is a general feeling that because of the local nature of ICC appeals they are best tried in the circuit court representing the area in which the claim arose.

The ICC supports replacing the current three-judge district court review procedure by review in the courts of appeals with certiorari to the Supreme Court, but the Commission in the past objected to the fact that this bill gives the Attorney General primary responsibility for control of litigation. However, the importance of having uniform control of all suits involving the United States has long been recognized, and it seems wise to put the ICC in a position similar to other agencies.

While I appreciate that the relationship between the Attorney General and independent agencies perhaps deserves consideration in the broader context, I believe that the merits of this bill—and its broad support—outweight the ICC's objections. Perhaps the right of an agency to appeal without the concurrence or support of the Attorney General ought to be a matter for separate legislative study. Uniform procedures for judicial review of all agency decisions—not those of just the ICC—could be studied at that time.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD at this point.

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

S. 663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 1336(a) of title 28, United States Code, is amended to read as follows:

"(a) Except as otherwise provided by Act of Congress, the district courts shall have jurisdiction of any civil action to enforce, in whole or in part, any order of the Interstate Commerce Commission, and to enjoin or suspend, in whole or in part, any order of the Interstate Commerce Commission for the payment of money or the collection of fines, penalties, and forfeitures."

SEC. 2. Section 1398(a) of title 28, United States Code, is amended to read as follows:

"(a) Except as otherwise provided by law, venue in any civil action to enforce, enjoin or suspend, in whole or in part, an order of the Interstate Commerce Commission for the payment of money or the collection of fines, penalties, and forfeitures is in the judicial district in which the petitioner resides or has its principal office.

SEC. 3. Section 2341 (3)(A) of title 28, United States Code, is amended by inserting following "Federal Maritime Commission", the words "the Interstate Commerce Commission,".

SEC. 4. Section 2342 of title 28, United States Code, is amended as follows:

(a) In the paragraph designated "(3)", following the semicolon, strike "and";

(b) In the paragraph designated "(4)", strike the period and insert in lieu thereof a semicolon followed by the word "and";

(c) Add a new paragraph "(5)" as follows:

"(5) all rules, regulations or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title."

SEC. 5. Section 2343 of title 28, United States Code, is amended to read:

"The venue of a proceeding under this chapter is in the judicial circuit in which the petitioner resides or has its principal office, or, except for a proceeding under paragraph (5) of section 2342 of this title, in the United States Court of Appeals for the District of Columbia Circuit."

SEC. 6. Section 2321 of title 28, United States Code, is amended to read:

"2321. Judicial review of Commission's orders and decisions; procedure generally; process

"(a) Except as otherwise provided by an Act of Congress, a proceeding to enjoin or suspend, in whole or in part, a rule, regulation or order of the Interstate Commerce Commission shall be brought in the court of appeals as provided by and in the manner prescribed in chapter 158 of this title.

"(b) The procedure in the district courts in actions to enforce, in whole or in part, any order of the Interstate Commerce Commission other than for payment of money or the collection of fines, penalties, and forfeitures, shall be as provided in this chapter.

"(c) The orders, writs, and process of the district courts may, in the cases specified in subsection (b) and in the cases and proceedings under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43), run, be served and be returnable anywhere in the United States."

SEC. 7. Section 2324 of title 28, United States Code, is amended—

(1) by striking after the word "enjoin" the words "set aside, annul", and

(2) by inserting after the word "Commission" the words "for the payment of money or the collection of fines, penalties, and forfeitures."

SEC. 8. The first paragraph of section 2323 of title 28, United States Code, is amended to read as follows:

"The Attorney General shall represent the Government in the actions specified in section 2321 of this title and in actions under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43)."

SEC. 9. Section 2325 of title 28, United States Code, is hereby repealed.

SEC. 10. The table of sections of Chapter 157 of title 28, United States Code, is amended to read:

"CHAPTER 157—INTERSTATE COMMERCE COMMISSION ORDERS: ENFORCEMENT AND REVIEW

Sec.
2321. Judicial review of Commission's orders and decisions; procedure generally; process.
2322. United States as party.
2323. Duties of Attorney General; intervenors.
2324. Stay of Commission's order."

ANALYSIS OF SECTIONS

Section 1 amends 28 U.S.C. 1336(a) to narrow the present general jurisdiction of the district courts in civil cases involving orders of the ICC. Under the amended language, the district courts would retain jurisdiction only to enforce any Commission orders and to enjoin or modify Commission orders that relate to the payment of fines or penalties. Other jurisdiction previously given the district courts is now given to the courts of appeals by 28 U.S.C. 2321(a). The section is also changed by deleting the words "set aside, anul" since they are redundant. Corresponding changes have been made throughout the bill.

Section 2 is a conforming amendment to 28 U.S.C. 1398(a), the section that specifies the district court venue of ICC judicial review actions. The amendment implements the objective of section 1 by narrowing the scope of 28 U.S.C. 1398(a) to actions not eliminated by section 1 and whose jurisdiction therefore remains in the district courts. The venue of the cases transferred to the court of appeals is governed by 28 U.S.C. 2343.

Section 3 amends the definition of the term "agency" contained in the Hobbs Act (28 U.S.C. 2341(3)(A) to include the ICC.

Section 4 amends the provision of the Hobbs Act (28 U.S.C. 2342) that specifies the classes of cases and agencies embraced by the Hobbs Act, by adding a new paragraph (5) and including therein all rules, regulations, or final orders of the Commission which are made reviewable by 28 U.S.C. 2321 (which, in turn, is amended by section 5 of the bill).

Section 5 amends the venue provisions of the Hobbs Act so that venue in ICC cases lies only in the judicial circuit where the petitioner resides or has his principal office. Alternative venue in the District of Columbia Circuit is not allowed because of the local nature of cases.

Section 6 containing three subsections, confers jurisdiction on the courts of appeals over those cases which section 1 of this bill removes from the jurisdiction of the district courts.

Subsection (a) provides that the courts of appeals shall have jurisdiction over any proceeding to enjoin or suspend in whole or in part, a rule, regulation, or order of the Commission and specifies that such proceedings shall be brought in the manner prescribed by the Hobbs Act (28 U.S.C. 2341–2351). The clause, "except as otherwise provided by an Act of Congress," refers to actions to enforce Commission orders or to enjon or modify orders of the Commission for the payment of money or the collection of fines. Jurisdiction over these orders remains in the district courts pursuant to section 1 of the bill.

Subsection (b) is derived from the first paragraph of the existing provisions of 28 U.S.C. 2321. It refers solely to actions for enforcement of orders of the Commission. The jurisdiction and procedure for these cases are not altered by the bill.

Subsection (c) is derived from the second paragraph of the existing provisions of 28 U.S.C. 2321 and with the exception of a minor conforming amendment, effects no change in existing law. The provision for nationwide service of orders, writs, and process of the district courts is retained for those cases whose jurisdiction remains in the district courts.

Section 7 is an amendment to the first paragraph of 28 U.S.C. 2323, designed to retain the existing responsibility of the Attorney General to represent the Government in all actions embraced by 28 U.S.C. 2321, as amended by section 6 of the bill.

Section 8 is a technical amendment designed to preserve the existing discretionary authority of district courts to grant stays in those cases in which jurisdiction remains in the district courts. A comparable provision in the Hobbs Act, 28 U.S.C. 2349(b), will apply to the cases whose jurisdiction is being transferred to the court of appeals by section 6 of the bill.

Section 9 repeals the provision of existing law that an order of the Commission can be enjoined only by a district court of three judges. The elimination of district court jurisdiction in section 1 of the bill renders the existing language in 28 U.S.C. 2325 obsolete.

Section 10 amends the table of sections of Chapter 157 of title 28, United States Code.

Section 11 is a conforming amendment to section 205(h) of the Motor Carrier Act, as amended (49 Stat. 550; 49 U.S.C. 305(g)), designed to eliminate any reference to the three-judge district court proceedings which have been abolished by section 1 of the bill and to conform the language to the changes effected by section 6.

Section 12 provides that the bill shall become effective with respect only to actions filed after the last day of the first month beginning after the date of enactment. Existing law shall govern all other actions until final disposition, including any appeals, that may be taken.

Mr. BURDICK. Mr. President, I am pleased to join with the Senator from Nebraska as a cosponsor of this measure. His interest in improving the administration of justice through the courts is familiar to me from his work as the ranking minority member of the judicial improvements subcommittee. Also, I am aware of his long-expressed desire to simplify current cumbersome and confusing procedure for appealing orders of the Interstate Commerce Commission.

This bill eliminates the requirement for three-judge district courts in ICC cases. These special tribunals have become a major procedural bottleneck in the Federal judicial system. The evils of three-judge courts were explained at length during hearings last year before the judicial improvements subcommittee. Many distinguished jurists and legal scholars urged their abolition—both for the trial of ICC appeals and for those constitutional cases where they are presently required.

I recently introduced another bill, S. 271, that would do away with three-judge courts in constitutional cases. This measure accomplishes the same objective for ICC appeals. It provides that, as in other administrative cases, they will be reviewed by the circuit courts of appeals.

There has been, as we are aware, some differences over the respective roles of the Justice Department and the ICC in controlling the litigation in review of these cases. I feel that the bill as drafted is adequate and I am hopeful that hearings on this measure will develop the respective interests of these agencies and that an appropriate understanding can be reached so that each party may fully represent its views and carry out its responsibilities in the judicial review of these controversies.

If these bills were both to become law, the burden of three-judge courts would become a thing of the past. It is with this hope that I give my support to the views expressed in the introductory statement of the Senator from Nebraska.

By Mr. RANDOLPH (for himself, Mr. GRAVEL, Mr. DOMINICK, Mr. HART, Mr. JAVITS, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. SCOTT of Pennsylvania, Mr. STEVENS, and Mr. WILLIAMS):

S. 667. A bill to amend the Public Health Services Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation. Referred to the Committee on Labor and Public Welfare.

HEALTH AND SAFETY ACT OF 1973

Mr. RANDOLPH. Mr. President, I introduce for appropriate reference a bill to provide for Federal minimum standards for the training and mandatory State licensure of radiologic technologists. At issue is assuring that the consumers, in this case the medical care patient, is receiving the most efficacious medical services that modern science is capable of delivering.

As pointed out when I introduced earlier versions of this measure in 1970 and 1971, only three States—California, New Jersey, and New York—required individuals exposing the consumer, in this case medical care patients, to potentially dangerous ionizing radiation to demonstrate proficiency in the operation of medical and dental X-ray equipment. As Dr. Karl Z. Morgan has pointed out this is, in part, why in the United States the average exposure of the consumer to medical radiation is 10 times as much as is necessary. Without question such practices are not efficacious.

In an effort to improve this situation and provide an opportunity for career mobility for well qualified radiologic technologists a distinction is provided in the bill between several categories of radiologic technologists. Consequently, the technologist will have the opportunity to progress upward from the status of "technologists-in-training" to that of a "senior radiologic technologist" in recognition of improved proficiency and additional professional responsibilities.

On several occasions the American Society of Radiologic Technologists have affirmed both their support of Federal minimum standards of education and licensure for radiologic technologists and their support of the Radiation Health and Safety Act which I introduced in the 91st and 92d Congresses and again introduce today. The potential hazards of X-rays to the consumer from medical and dental exposures has been the subject of several articles in the general press, in 1972, including Woman's Day magazine and Reader's Digest. In addition Regnery Publishers of Chicago, Ill., on January 15, 1973, announced publication of the "Silent Slaughter," a book by Joel Griffiths and Richard Ballantine on the radiation hazards of conusmer exposures from medical and dental uses of radiation as well as electronic products.

Each of these publications support in principle the need to assure that individuals responsible for exposing the general public to potentially hazardous radiation understand the adverse implications of radiation exposure and how to minimize the attendant risks to medical and dental uses of radiation.

At this point I ask unanimous consent to place in the RECORD the text of the Radiation Health and Safety Act of 1973, which is being cosponsored by the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. DOMINICK), the Senator from Michigan (Mr. HART), the Senator from New York (Mr. JAVITS), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from New Jersey (Mr. WILLIAMS). I ask unanimous consent also that copies of the American Society of Radiologic Technologists resolution of July 20, 1972, supporting this measure and the articles to which I have referred to in my introductory remarks be inserted in the RECORD.

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

S. 667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be ctied as the "Radiation Health and Safety Act of 1973".

SEC. 2. It is the purpose of this Act to—

(a) assure adequate training of radiologic technologists by providing for the establishment of criteria and minimum standards for accrediting schools for the training of radiologic technologists;

(b) provide for the establishment of criteria and minimum standards for the licensure of radiologic technologists; and

(c) provide for State adoption and administration of programs for the accreditation of education institutions training radiologic technologists and programs for the licensure of radiologic technologists, with authority for the Secretary to take necessary action in the absence of State action.

SEC. 3. Title III of the Public Health Service Act is amended by inserting after part F, subpart 3, section 360F, the following:

"Subpart 4.—Radiologic Technologists

"DECLARATION OF PURPOSE

"SEC. 360G. The Congress finds and declares—

"(a) that, consistent with the recommendations of the National Council on Radiation Protection and the International Commission on Radiological Protection and Measurement, it is in the national interest and in the interest of public health and safety to minimize exposures of the public to ionizing radiation from all sources;

"(b) while the operation and use of radiologic equipment and methods is essential in modern medicine, even the most advanced equipment and methods will not adequately protect the health and safety of patients subjected to radiologic diagnosis or therapy and the health and safety of radiologic technologists applying radiologic equipment and methods, including their progeny, unless these technologists are fully

trained and qualified in the operation of such equipment or the application of such methods so as to avoid unnecessary exposure to ionizing radiation;

"(c) that it is in the overall public health interest to have an adequate and continuing supply of well-trained radiologic technologists and that any person who operated radiologic equipment or employs radiologic methods should be required to demonstrate competence by training, experience, and examination; and

"(d) that the protection of the public health and safety from unnecessary exposure to ionizing radiation from all sources is the primary responsibility of State and local government, within minimum criteria and standards established by the Federal Government."

"RECOMMENDED CRITERIA AND STANDARDS

"SEC. 360H. (a) The Secretary shall, as soon as practicable, but not later than one year after the date of enactment of the Radiation Health and Safety Act of 1973, develop and issue to the States criteria and minimum standards for the accreditation of education institutions conducting programs for the training of radiologic technologists and minimum criteria for education institutions conducting programs for the training of medical and dental, practitioners and dental hygienists. Such criteria and standards shall be published in the Federal Register.

"(b) The Secretary shall, as soon as practicable, but not later than one year after the date of enactment of the Radiation Health and Safety Act of 1973, develop and issue to the States criteria and minimum standards for licensure of radiologic technologists, and such other advice and assistance as he deems necessary. Such criteria and minimum standards shall distinguish between senior radiologic technologists, medical radiologic technologists, dental radiologic technologists, radiation therapy technologists, nuclear medicine technologists, photo-roentgen technician, and technologist-in-training. Such criteria and standards shall be published in the Federal Register.

"(c) In establishing criteria and minimum standards under this section the Secretary shall consult with State health departments and appropriate professional organizations including, but not limited to, the American Society of Radiologic Technologists, the American Podiatry Association, the American Board of Nuclear Medicine, the Society of Nuclear Medicine, the American Society of Clinical Pathologist, the American Academy of Dental Radiology, the American Registry of Radiologic Technologists, the American Dental Association, the American Medical Association, the American College of Radiology, the American Osteopathic College of Radiology, the American Osteopathic Association, the American Board of Health Physicists, the American Association of Physicists in Medicine, and the Health Physics Society.

"(d) The Secretary shall give to the States such other advice and assistance as will encourage them to enact and enforce appropriate laws and standards. Such advice and assistance may include model laws and training curriculums, and training aids.

"(e) The Secretary shall, from time to time, revise the criteria and standards material issued by him pursuant to this section.

"STATE ACCREDITATION AND LICENSURE

"SEC. 360I. (a) The training and licensure of radiologic technologists who intend to apply ionizing radiation to humans for diagnostic or therapeutic purposes in any State or States shall be subject to the provisions of this section.

"(b) Consistent with the policy declaration of this subpart, State and local government shall be encouraged to minimize exposures of the public to ionizing radiation from all sources and shall not be displaced by Federal action except as otherwise provided under subsection (c) or (d).

"(c) After receiving any criteria and minimum standards issued pursuant to section 360H for the accreditation of educational institutions conducting programs for the training of radiologic technologists, the Governor of a State may file with the Secretary a letter of intent that such State will within two years of the issuance of the criteria and minimum standards adopt as a minimum, the standards for accreditation of educational institutions conducting programs for the training of radiologic technologists issued by the Secretary. If, after two years, a Governor fails to adopt such standards, or is unable to adopt such standards or more stringent standards, the minimum standards issued by the Secretary for the accreditation of educational institutions for the training of radiologic technologists shall become the standards in such State. If the Secretary determines that such State standards are consistent with the criteria and minimum standards issued pursuant to section 360H; that an adequate means of enforcement by State action is provided; and that the State program is consistent with the purposes of the subpart, such State standards shall be the standards applicable to such State.

"(d) Upon application of a Governor, the Secretary may grant an extension under subsection (c) for not more than two years if after review the Secretary determines that good faith efforts have been made by the State and reasonable assurance is provided that an effective program to implement the purposes of this Act will be provided by the State within the period of the extension.

"(e) After receiving any criteria and minimum standards issued pursuant to section 360H for the licensure of radiologic technologists, the Governor of a State may file a letter of intent that such State will within two years of the issuance of the criteria and minimum standards adopt as a minimum the standards for licensure of radiologic technologists issued by the Secretary. If, after two years, a Governor fails to adopt such standards, or is unable to adopt such standards or more stringent standards, the minimum standards issued by the Secretary for licensure of radiologist technologists shall become the standards in such State. If the Secretary determines that such State standards are consistent with the criteria and minimum standards issued pursuant to section 360H; that an adequate means of enforcement by State action is provided; and that the State program is consistent with the purposes of this Act, such State standards shall be the standards applicable to such State.

"(f) For the purpose of implementing licensure of radiologic technologists, the Secretary may certify appropriate State or professional licensing organizations.

"(g) The Secretary may make grants to States in an amount up to two-thirds of the first year and one-third of the second year costs of planning, developing, or establishing programs to carry out the purposes of the Radiation Health and Safety Act of 1973.

"(h) The Secretary may make grants to educational institutions under section 314 (E) of this Act (Partnership for Health Amendments of 1967, Public Law 90–174) or the Health Manpower Act of 1968 (Public Law 90–940) to carry out the purposes of the Radiation Health and Safety Act of 1973.

"(i) The Secretary shall annually review programs established pursuant to this subpart and shall suspend the effectiveness of any standards or regulations as to accreditation or as to licensure with respect to any State or certified professional licensing organization when he determines that administration of such State program is inconsistent with the purposes of this subpart or revised criteria and minimum standards issued pursuant to subsection 360H(e)."

"PROHIBITED ACTS

"SEC. 360J. (a) Upon the effective date of regulations and standards established pursuant to the subpart, it shall be unlawful for any institution to conduct a program for training of radiologic technologists unless accredited by the Secretary or a State program approved by the Secretary, or for any individual to apply ionizing radiation to humans for diagnostic or therapeutic purposes unless he is a licensed medical practitioner, a licensed dentist, a licensed dental hygienist, or holds a valid radiologic technologist license issued according to the standards promulgated pursuant to Section 360H: Except, for licensed photo-roentgen technologists and technologist-in-training who must be under the supervision of a radiologist or a more senior radiologic technologist as provided for in Section 360H.

"(b) The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of this section. The district courts of the United States shall also have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce the provisions of this section.

"(c)(1) Any violation of this subsection by the owner or operator of an educational institution, or an individual applying radiation to human beings for diagnostic or therapeutic purposes shall be subject to a civil penalty of not more than $1,000. For the purposes of this section, any such violation shall be with respect to each act or omission made unlawful by this section.

"(2) Any such civil penalty may on application be remitted or mitigated by the Secretary. In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be deducted from any sums owing by the United States to the person charged.

"(d) Actions under this section may be brought in the district court of the United States for the district wherein any act or omission or transaction constituting the violation occurred, or in such court for the district where the defendant is found or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

"(e) Nothing in this subpart shall be construed as requiring the Secretary to report for the institution of proceedings minor violations of this subpart whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

"(f) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law."

RESOLUTION BY THE AMERICAN SOCIETY OF RADIOLOGIC TECHNOLOGISTS

Whereas, the American Society of Radiologic Technologists is supportive of any effort to reduce risk to the public from unnecessary exposure to ionizing radiation,

Whereas, the Society recognizes the need for assurance of adequate personnel qualifications as part of this total effort,

Whereas, the Society recognizes the necessity for state regulation of radiologic technology to provide such assurance,

Whereas, the Society must encourage regulation in each state based upon uniform minimum standards of training and curricular accreditation as the only effective means of providing such assurance.

Therefore, be it Resolved that the Ameri-

can Society of Radiologic Technologists call upon the 92nd Congress to enact legislation which will provide a vehicle for effective state regulation of radiologic technologists as delineated in Senate Bill 426. I move the reaffirmation of this Resolution.

X-RAY HAZARDS—AND HOW TO AVOID THEM

(By Marjorie Hope and James Young)

Scientists are becoming increasingly alarmed about the harmful effects of radiation—especially the potential for genetic defects and various forms of cancer. As individuals, we have little or no control over some radiation sources—such as cosmic rays or radioactive minerals in rocks—but we can do something about the amount we get from man-made sources.

According to Dr. Karl Z. Morgan, former director of the Health Physics Division of the Oak Ridge National Laboratory, approximately 90 percent of the man-made radiation to which we're exposed comes from diagnostic X-rays. What's more, Dr. Morgan believes this exposure could be cut to one-tenth of its present amount without losing the benefits of X-rays.

No one disputes the value of diagnostic X-rays. They undoubtedly save tens of thousands of lives every year. But Dr. Morgan and other experts believe that faulty X-ray equipment, poor techniques, and the indiscriminate use of X-rays also cause thousands of deaths every year. Although a single X-ray is not apt to cause much damage, all exposure involves some risk. And the effects are cumulative. Experts are especially concerned about X-ray damage to the embryo and reproductive organs. Studies show that damage to the embryo can produce birth defects and childhood cancer and that radiation injury to reproductive cells can lead to genetic defects.

This does not mean that a person who needs X-rays should be afraid of them, for the potential benefits far outweigh the possible damage from radiation exposure. What it does mean is that X-rays should always be kept to a minimum.

Many of the most common X-rays are now considered unnecessary. The U.S. Public Health Service, for instance, is discouraging the use of mobile chest X-ray units to detect tuberculosis. For screening purposes, officials recommend the tuberculin skin test (often known as the time test) which consists of a scratch. If the reaction is positive (that is, if the skin puffs up) the test should be followed up with an X-ray.

Although many people believe teeth should be X-rayed on a regular basis, the American Dental Association has now taken the stand that "radiographic examinations should not be a standard part of every dental examination, but used only when necessary for proper diagnosis."

Health physicists also disapprove of taking routine X-ray measurements of the pregnant womb. These should be reserved for special cases in which difficulties are expected with delivery. The routine use of X-rays to treat bursitis or non-malignant skin ailments is being discouraged as well.

X-rays should not be employed unless there is clear medical benefit. This means that physicians should not fluoroscope youngsters to show parents their anatomy, nor use X-rays to treat ringworm of the scalp. It means that such outmoded practices as inspecting factory employees with fluoroscopic equipment to discourage stealing, using fluoroscopes to observe the jaws and throats of music students, and teaching schoolchildren about X-rays with the aid of hand-held fluoroscopic screens should be completely eliminated.

Even when X-rays are necessary, care should be taken to avoid duplication. As Dr. John McClenahan pointed out in the journal, Radiology, "Some interns and some chiefs reorder, by reflex, a series of X-ray examinations when a patient enters their hospital even though he may carry in his hands a set of films one week old that establish his diagnosis unequivocally." Unless there is a clear reason to question the results of recent X-rays, they should not be repeated.

When you do make sure that the actual radiation exposure is kept to a minimum. The first consideration is the training of the person who runs the machine. Unfortunately, most physicians, dentists, chiropractors and other practitioners have had little or no formal training in the proper operation of X-ray equipment. And the training of many technicians is limited to a few hours of instruction from a manufacturer's representative. Since an incompetent operator can unwittingly expose patients to as much as 200 times the amount of radiation necessary, it's wise to seek out those who've passed the certifying exam given by the American Registry of Radiologic Technologists. (Only three states—New York, New Jersey, and California—require a license to operate medical X-ray machines.) Technicians who work under the supervision of a radiologist in a hospital or medical group are also apt to be better trained than those in a private physician's office.

The use of modern equipment and safety devices can reduce the radiation exposure to as little as one thousandth of that produced by faulty equipment. The best machines have either a collimator (controlled by a dial) or an assortment of cones to restrict the X-ray beam to the part of the body being examined. This requires more careful aim on the part of the operator, but can make a significant difference. So can filters that sift out unnecessary "soft" rays (much more dangerous than the hard).

Since X-rays can also give off "scatter," it is wise to protect the reproductive organs with lead-lined rubber shields or a lead-lined rubber apron. For fluoroscopic exams, doctors should always use image intensifiers—large cylindrical devices on the top of the fluoroscopic screen. These enhance the light from the screen so that less radiation is needed. Fluoroscopes should be used only when motion studies are necessary.

X-ray films should not be outdated, improperly stored, or of the slow-speed type. Proper sensitivity of the film is important. In many cases, the radiation dose can be reduced to one tenth simply by using more sensitive film.

Perhaps the most important precaution you can take, however, is to discuss all X-rays with your physician or dentist. Many doctors are so pressured that, in the words of Dr. McClenahan, "it is easier to order an X-ray examination than to think." Others are so fearful of malpractice suits that they order unnecessary X-rays just to have visual proof of the nature of an injury in the event they are taken to court.

It's up to you to take the initiative. Keep a list of the X-ray examinations you've had and show them to every new doctor. You can refuse to have duplicate X-rays taken. If you sign a release form, your doctor can request that films of previous X-rays be transferred to him. If he wants to repeat X-rays of some part of your body that has been examined recently, ask him if it is really necessary. On reflection, doctors often decide the examination is not essential, after all. And merely asking questions sometimes encourages the use of precautionary measures.

If there's any chance at all that you might be pregnant, X-rays of your pelvic and abdominal regions should be postponed (if your doctor thinks it's safe) until your menstrual period or the safe period immediately after it. If other parts of the body are being X-rayed, ask for shields to protect your reproductive organs. Shields are particularly important for pregnant women, and also for small children since their reproductive organs are relatively close to the chest or teeth. The cells of unborn and young children are also more sensitive to X-rays than those of adults.

Don't be afraid to ask an X-ray technician if he uses cones or a collimater. If the answer is no, consider going elsewhere. Although properly inspected equipment should be safe regardless of its age, some of the latest machines (which are more commonly found in hospitals) can take pictures in one hundredth of a second—which means a significant decrease in exposure. In any case, it's important to follow the technician's directions carefully to minimize the necessity of retakes.

When you're having dental X-rays, make sure that the cone-shaped "spacer" is placed so that it touches your skin when the exposure is taken. This helps limit the area of exposure to the area of the film in your mouth. (Holding the film between your teeth, by the way, involves no danger to you, and avoids unnecessary "scatter" to the person who works near radiation all day long.)

Most of these precautions would be unnecessary if the laws regarding X-ray equipment and technicians were more effective. They should require the use of shields and collimation, mandatory inspection of equipment on a regular basis, the easy transfer of X-rays from one doctor or hospital to another and, most important of all, compulsory licensing of all people who use X-ray equipment. What's more, laws already on the books should be better enforced. The latest Bureau of Radiological Health report shows that at the end of 1971, only 76.3 percent of the dental X-ray machines and 71.7 percent of the medical machines were "in compliance" with existing laws.

Although a recent nation-wide survey by the U.S. Bureau of Radiological Health shows a drop from an average of 55 to 36 millirads per year in the genetically significant dose from diagnostic X-rays, we're still way behind England, where the laws are very strict. In 1964, the genetically significant dose there averaged only 8.6 millirads, and some British authorities believe it can be reduced to 2 millirads in the 1970's.

British doctors order far fewer X-ray examinations than Americans (who have the highest number of X-rays per capita in the Western world), and duplication is rare. This does not mean that British health standards are lower than ours. On the contrary, their infant mortality rate is lower, and their life expectancy slightly greater than in the United States.

Looking toward the future, Dr. Morgan recommends use of a computerized radiation-exposure record. It would include all relevant information such as dates of exposures, reason, type of examination, shields used, estimated dose, and pertinent details of pregnancy. Dr. Morgan estimates that with such a system less than five minutes would be required to process the data on each patient.

Even more important is the development of a new technique—electronic radiography—that can replace X-ray film or fluoroscopy in many examinations, and reduce the radiation exposure in diagnostic procedures to as little as 1 percent of the normal dose. An X-ray image is converted into a television signal, which is instantly stored on a magnetic disk and then replayed over a television monitor as a frozen picture (similar to stop-action on television sports programs).

At the University of Pittsburgh School of Medicine, a team headed by Drs. Donald Sashin and Ernest Sternglass has been using electronic radiography for several purposes—including fluoroscopy of the gastrointestinal tract—and is refining the technique for use in pelvimetry and intra-uterine transfusions (which will dramatically reduce the radiation dose to the baby). Dr. Julius Grollman and his colleagues at the U.C.L.A. Medical School have been using electronic radiography daily to make fluoroscopic studies of the heart. These are only two examples of the promising

new uses of alternatives to conventional X-rays.

They point up the need for a three-pronged approach development of alternatives to X-rays, reduction of exposure in the X-ray techniques now being used, and licensing of all those who use X-ray machines.

In our complex society, many of the benefits we enjoy carry some potential risks. Clearly, the *overall* benefits of X-rays far outweigh the risks. Yet with more stringent controls and greater prudence on the part of everyone concerned with X-rays, we should be able to reduce the risks from a tool that has done so much to prolong our lives.

WARNING: X-RAYS MAY BE DANGEROUS TO YOUR HEALTH

(By Fred Warshofsky)

In 1970, the last year for which figures are available, 129 million Americans were exposed to a total of 210 million medical and dental X-ray examinations, involving the taking of 650 million films. Such X rays make up 95 percent of all the man-made radiation to which we are exposed, and undoubtedly save hundreds of thousands of lives each year. At the same time, however, experts are becoming increasingly concerned that X rays may pose a major threat to the genetic inheritance of children as yet unconceived and that they may be causing a significant number of avoidable deaths each year. Shockingly, much of this diagnostic X-ray exposure, at least 30 percent, according to John Villforth, director of the U.S. Bureau of Radiological Health, is unproductive—the examination doesn't contribute any diagnostic information to the physician.

Medical X rays are packed with tremendous energy. The beams rip like lightening bolts through the delicate walls of cells, altering their metabolism, changing their character, often destroying them. If enough cells of a particular type are struck, the results are disastrous. If, for example, they are blood-making cells in the bone marrow and enough of them are damaged, leukemia can result. K. Z. Morgan, director of the Health Services Division. Oak Ridge National Laboratories, estimates that deaths due to X-ray-induced diseases (such as bone cancer, thyroid tumors and leukemia) range from 3,000 to 4,000 and more annually.

Yet it is not leukemia and cancer but the threat to our reproductive cells that is causing the most concern. If these cells, housed in the male and female genitals, are damaged by X rays, the chances of genetic defects in the offspring—from mental retardation and blindness to a host of lethal mutations—are greatly increased.

No one knows precisely how much of a radiation dose will cause mutations. But animal experiments have convinced radiation biologists that *any* dose to the gonads—no matter how small—carries some risk. The effects, furthermore, are cumulative. K. Z. Morgan estimates that as many as 30,000 malignancies, stillbirths and spontaneous abortions may occur each year in future generations because of such genetic damage. Mutations almost always produce damaged offspring, and constitute an increasingly greater burden to parents and society. One study indicates, for example, that there may be increased risk of childhood cancers as a result of X-ray exposure of the mother prior to conception. This means that the reproductive machinery of the mother had been altered by X-rays in such a way as to include an increased risk of cancer as part of the future child's genetic inheritance, and henceforth this inheritance may be passed from one generation to another.

Perhaps the greatest X-ray threat comes during pregnancy. A Harvard study of more than 700,000 infants in 39 U.S. hospitals showed a 40-percent increase in leukemia and cancer of the central nervous system in children whose mothers were X-rayed during pregnancy. A study in Great Britain by Dr. Alice Stewart found that the risk of death from leukemia and other forms of cancer is about 50-percent higher among children exposed to diagnostic X rays in utero. As a result of such findings the International Commission on Radiological Protection recommends that all radiological examinations of the lower abdomen and pelvis of women of reproductive capacity, that are not in connection with an immediate illness of the patient, be limited to the ten-day interval following the onset of menstruation, the period when pregnancy is least likely. Yet pregnant women are still being exposed to X rays in the pelvic area.

Why are people subjected so needlessly to X rays? One trouble is that too many X-ray machines in the United States are owned and operated by nonradiologists (such as physicians, dentists and chiropractors), who have no education in health physics or radiation protection. Only three states require that X-ray technicians be licensed, and two of those three exempt the physician simply because he has an M.D. after his name. But rare is the medical-school curriculum that has more than two or three lectures on radiological protection and techniques. Actually, the only real X-ray training the non-radiologist gets is more than likely from the X-ray-equipment salesman, who may well be more interested in selling machines than in protecting the patient.

But in many instances radiation protection is easy to provide. One way is to use a collimator. This can be as simple as a lead washer that narrows the X-ray-beam size to the exact size of the film. Without collimation, the beam is often as much as four times larger than necessary, thereby exposing far more of the body area. In the case of chest, abdominal and spinal X-rays, this means that the gonads are also irradiated. Unfortunately, collimation is often ignored. "Collimation means that the beam must be aimed more precisely," explains John Villforth. "If the doctor or technician is careless about aiming, he may miss the target organ entirely and have to reshoot. Too many are willing to expose the patient to a lot more beam, to be certain of getting their picture."

Another way to reduce or eliminate X-ray exposure of the gonads is to use gonadal shielding. A University of California team has recently improved what amounts to a set of lead underdrawers to be worn by men. But it is unlikely that an effective shield can be developed for women.

The best way to reduce exposure, obviously, would be to eliminate unnecessary X-ray examinations. Why are they made? Sometimes the patient pressures the doctor into ordering an X-ray because he feels that an examination is incomplete without one. Sometimes physicians are so fearful of malpractice suits that they will order X-rays simply to have evidence to show the nature of the problem treated and that their treatment was correct. Sometimes, with Medicaid and local programs paying up to $15 to $25 per X-ray, doctors and dentists use their machines simply to make money. It is suspected that in some ghetto clinics, even before seeing a doctor, patients have two chest X-rays, a spinal X-ray for the chiropractor and two X-rays of the feet for the podiatrist. Later the patient may have a full set of 14 mouth X-rays made for the dentist. In New York one dentist with 17 X-ray machines in his two offices recently sued Medicaid for non-payment of more than $300,000 in X-ray fees.

But it is in the daily practice of medicine that most people are needlessly exposed, simply because X-rays have become routine. "It is," says Dr. John L. McClenahan in an editorial in *Radiology*, "easier to order an X-ray examination than to think." Proving this point, Drs. Russell S. Bell and John W. Loop of the University of Washington School of Medicine studied 435 patients who received head injuries and were X-rayed in hospital emergency rooms even though preliminary examination did not indicate a fracture. They did not find a single patient whose treatment was significantly different as a result of X-ray. Bell and Loop found that 34 percent of the skull X-rays were made for legal reasons, anticipating a suit or insurance claim.

Some small progress is being made in reducing the routine use of X-ray. Such old routines as mass chest X-rays are being eliminated. But rare indeed is the dentist who does not recommend or simply go ahead with a full set of 14 X-rays of his patient's mouth once a year. The Bureau of Radiological Health and the American College of Radiology have established guidelines and sent them out in the form of a booklet to every user of X-ray equipment in the United States. The single most important step, however—the enforcement of standards for everyone who operates X-ray equipment—is the province of the states, and virtually all states have either not yet established standards or are so hampered by a lack of funds that their standards are unenforced.

Increasing awareness of X-ray dangers has produced some hopeful results. Notably there is a decline in a measurement known as the "genetically significant dose," a highly technical statistical measure of the X-ray exposure to the reproductive system of men under 65 and women under 50. Last spring the U.S. Public Health Service announced that between 1964 and 1970 the GSD had dropped by a third. But officials warn against interpreting these figures too optimistically: the decline was due primarily to a decrease in the gonadal dose to males; the dose to women of childbearing age *increased* by 12 percent in the same period.

For all its dangers, the X-ray is certainly too important a tool to abandon. Until everyone who operates X-ray equipment is properly trained and made to conform to standards, there are questions the patient himself can ask to prevent unnecessary exposure. He should ask his physician or dentist:

"Is this X-ray absolutely essential to my wellbeing?"

"Are there no previously made X-ray films or other test results that might provide the needed information?"

"If the X-ray is essential, has every step been taken to limit the exposure to the absolute minimum and to restrict the X-ray beam to that part of my body undergoing examination?"

If everyone who operates X-ray equipment will proceed only when he can answer yes to these questions, then the X-ray beam will resume its role as a vital weapon against disease and not itself become a threat to health.

By Mr. MUSKIE:

S. 676. A bill to provide that budget requests of executive agencies shall be made known to the Congress and the public and to require public disclosure by Government agencies of participation in its rulemaking process by other Government agencies. Referred to the Committee on Government Operations.

PUBLIC BUDGETING AND RULEMAKING ACT OF 1973

Mr. MUSKIE. Mr. President, over the past decade the Office of Management and Budget has greatly increased its power and influence over all Federal programs affecting domestic affairs. In the past 4 years its influence over some domestic agencies has become all powerful to the point where OMB makes decisions that not only affect agency budget and mangement structures but go to the very substance of agency programs.

In many cases OMB has become the de facto supervisor of programs assigned by the Congress to a particular Federal agency. It has usurped powers intended for an agency by Congress and imposed decisions on agencies with no accountability whatsoever for its actions.

We know the Secretary of Transportation and his assistants. They must come before us to explain their agency actions, and they are subject to Senate confirmation. But who knows the man at OMB, directing DOT's affairs and often telling the DOT what its polices must be.

We know the Secretary of Health, Education, and Welfare and his assistants. They testify before us, and they are subject to Senate confirmation. But who knows the officials at OMB who say congressionally authorized programs are to be terminated and regulatory activities curtailed.

We know the Administrator of the Environmental Protection Agency and his assistants. They testify before us, they are subject to Senate confirmation. But who knows the officials at OMB who have the last say in ultimate decision-making power on EPA's budget, EPA's management structure, and many of its rulemaking activities

Mr. President, many agencies today are run by two heads. The designated agency head, assigned by Congress with responsibility to run a program, and his invisible but powerful partner at OMB who makes many of the decisions on how a program will be run.

This is not responsible policymaking. It makes for secret, unaccountable government, easily affected by special interests, with access to OMB and its directors in the White House, but impossible to fathom for Congress and the public who are trying to define and determine accountability and responsibility for vital decisions which are being made.

The legislation I propose today would end that practice. It would reaffirm the authority of the individual agencies to work in the area of expertise, to make recommendations to Congress and to implement programs as intended by Congress. At the same time it would allow OMB to continue planning overall budgetary ceilings, setting priorities among the agencies as a public rather than a private process, and generally overseeing the management of Government and making recommendations, but again through a public, not a private process. Briefly, the legislation I propose would do the following:

First. Require that each Federal agency develop its own budgetary proposals—this is currently done by each individual agency anyway; it is made a requirement to avoid any claim that agency budget data are covered by executive privilege—and that each agency submit those budgetary proposals to Congress at the same time those budgetary proposals are submitted to the Office of Management and Budget or any other Federal agency.

Second. Require that any and all documents submitted to Congress, the Office of Management and Budget, or any other Federal agency with respect to the proposed budget of a particular agency, be made available for public inspection, except where national security matters are involved.

Third. Provide that where any Federal agency publishes proposed regulations, comments of other Federal agencies, including the Office of Management and Budget, on those regulations shall be allowed only to the same extent and in the same time frame as comment by the public is allowed. Further, all comments by Federal agencies on another agency's rulemaking proposals must be in writing and available for subsequent public inspection.

The advantages of this legislation will be many:

First. It would further the objective of open government. Budgeting and rulemaking activities would be open to much greater public scrutiny and public involvement through availability of documents relating to budgeting and rulemaking activity.

Second. It would speed the rulemaking process. Delays in rulemaking which have been occasioned by OMB reviews would be substantially reduced and the deadlines intended by Congress would be more readily achieved. These delays have been particularly critical in the Clean Air Act where, for example, regulations relating to hazardous substances, originally proposed by EPA early last year have yet to be published because of the delays imposed by OMB.

Third. Government lines of authority would be clearer. It would be easier for Congress and the public to establish responsibility for changes in guidelines and regulations—such as the OMB mandated changes in EPA regulations relating to State implementation plans under the Clean Air Act. Because each agency's comments would be required to be made public, and their commenting opportunities limited to the same time frame as the public, responsibility for recommended policy changes which surface in final guidelines would be simpler to assign.

It would end the current process, under which the issuing agency must often tell less than the truth, taking responsibility for all changes in guidelines or regulations, regardless of whether the changes were developed at the issuing agency or imposed upon them by another Federal agency.

Fourth. Most importantly, this bill will make Congress a more responsible partner in the budgetmaking procedure. Congress will have budgets recommended by the individual agencies—something it is denied today. With these, Congress can assume a much greater role in priority setting than is possible now when the only information available to Congress is information furnished by OMB after it has established priorities for all the Federal agencies. OMB priorities are, of course, established within the context of a maximum level of expenditures which the administration deems appropriate. Agency budgets are then presented to Congress as wholly adequate to perform all of the functions of the agencies. No one, of course, believes this but it is a position of untruth which many civil servants are forced to take in justifying their budgets.

A more truthful procedure and one which gave greater recognition to the congressional power of the purse would be for the administration to provide both the budget request of the individual agencies, indicating what those agencies believed necessary to accomplish their functions and, subsequently, the budget request of OMB indicating the administration's allocation of priority among those functions and the maximum level of expenditures the administration deems appropriate. With these documents, Congresse could then more accurately make decisions on appropriate allocation of priorities and levels of expenditures and exercise better oversight over implementation of laws it has passed. These powers are now limited because Congress does not have available to it all of the information relating to individual agency needs to perform their tasks according to the congressional mandate.

It is my belief that this legislation is necessary to meet the challenge stated to us by our distinguished majority leader that "if there is one mandate to us above all others, it is to exercise our separate and distinct constitutional role in the operation of the Federal Government. The people have not chosen to be governed by one branch of government alone."

By Mr. KENNEDY (for himself, Mr. WEICKER, Mr. BROOKE, Mr. HART, Mr. JAVITS, Mr. MCGOVERN, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, and Mr. SCOTT of Pennsylvania):

S. 679. A bill to improve the efficiency of the Nation's highway system, allow States and localities more flexibility in utilizing highway funds, and for other purposes. Referred to the Committee on Public Works.

HIGHWAYS AND RELATED TRANSPORTATION SYSTEMS IMPROVEMENT ACT OF 1973

Mr. KENNEDY. Mr. President, I am introducing today with the distinguished Senator from Connecticut (Mr. WEICKER) the Highways and Related Transportation Systems Improvement Act of 1973 to seek some progress this year toward correcting the distortions and imbalances in our transportation system.

A year ago, we introduced a similar measure with the hopes that it might prove the basis for a new look at the way the Federal Government has stimulated a one-sided view of how to move people and cargo across this continent.

To a degree, I believe we were successful as the Senate finally blasted the first crack in the transportation ethos that more highways are the only answer to our transportation needs.

Even that step—Senate passage of the Cooper-Muskie amendment to offer an option to cities in the use of $800 million of the highway trust fund for mass transit—was a limited one. But it did reflect a dawning recognition that the traditional system of transportation financing could no longer be depended upon to meet modern transportation needs.

Now it is time to extend that recognition to the Congress as a whole and to permanently change the highway trust fund from a Federal conduit for con-

crete into a sensible national mechanism to finance transportation solutions—whether they call for mass rail transit, buses, intercity rail or essential highways. For only in this way can we relieve the transportation crisis that now exists.

It is a crisis borne of our own reluctance to analyze and review what our predecessors established over 15 years ago. Thus, the Department of Transportation in its first national transportation policy statement discovered, as former DOT Secretary John Volpe noted:

> On the whole, the transportation system which has evolved, both consciously and unconsciously, represents an uneven fabric ill-suited to today's needs, and is, itself, a major contributor to the problems facing transportation today.

The DOT analysis found a nonsystem distinguished by these by-products: too many cars and trucks in urban areas, severe decay of the environment and financial distress in key segments of the transport industry.

This analysis and a host of other expert studies have confirmed that the critical flaw in our transportation system is that each mode of travel is linked to separate Federal and State construction programs, each demanding separate planning and each receiving funds from separate sources.

And each program has its own host of special interests hovering about like a swarm of jealous bees. The auto manufacturers, the trucking interests, the contractors, and the oil interests which comprise the highway lobby have made it clear that they consider the highway trust fund their personal feed trough.

And the sad result of their success is that no city, no State, no region is able to select the mix of road, rail, and air services to fit its special circumstances and needs.

Cities suffer most. For urban residents pay more than their fair share of the cost of the highway trust fund; yet they receive substantially less in return.

They pay more than half of all taxes paid into the trust fund; yet the vast majority of trust fund moneys have been spent outside the urban areas.

And the cities pay most of the indirect costs of the highway program as well. They receive most of the pollution, most of the congestion, and most of the neighborhood destruction which rides along with the highway program.

This forced Federal regimentation in the use of transportation moneys and the imbalance on the side of highways also has produced serious consequences for those segments of the population which have the least mobility.

The continued overemphasis on the private automobile in transportation will only increase the plight of the disadvantaged.

And when we view this problem we cannot forget that some 57,000 Americans were killed on our Nation's highways last year, almost equal to the number killed in Vietnam during a decade of war. Surely, part of the answer is to provide transportation systems that begin to reduce our nearly total dependence on highways.

For all these reasons, I introduced in 1970, and again last session, legislation providing for a single transportation trust fund to permit comprehensive and integrated planning and funding of all transportation programs. I will again introduce this measure in this Congress as the only long-range answer to permitting transportation priorities to be established without the bias of huge pots of Federal money for one mode of transportation and miniscule cups of money for the rest.

For highways have been funded from a free-flowing Federal spigot that has poured out more than $53 billion for the past 16 years. Last year alone, the Federal transportation budget was planned to spend 62.9 percent on highways and 3.4 percent on mass transit and intercity rail. And this Federal direction has helped force local and State governments into the same mode—so that in 1973, $22.4 billion is planned for expenditure on roads and highways.

Today we have a backlog of more than $4 billion in requests for urban mass transit assistance from the Nation's cities. And we have additional needs for intercity rail transportation. Yet the administration has impounded some $300 million in urban mass transportation funds and has acknowledged that it is scaling down its support of Amtrak.

Urban America has continued to be the main victim of our distorted transportation priorities. And now we learn that urban mass transit research is being cut in half under this administration's proposed budget while SST research is being increased.

But in our efforts to provide more options in transportation planning and construction, we are not speaking solely for the cities.

For at the Governors' conference 2 years ago, strong support was voiced for discretion in the use of trust fund moneys. Governors of our Western, Midwestern, and Southern States understand full well that highways no longer offer the sole answer or the best answer to many transportation problems.

Some look to buses, some to urban mass transit and some to intercity high-speed rail transportation. For it is not just the 12 States in the Boston to Washington corridor where there is a need for upgraded rail passenger service.

There are other urban corridors developing, many in rural States, corridors where Governors and mayors are beginning to think about high-speed rail systems as part of the answer to their transportation needs.

These are Philadelphia-Pittsburgh, Miami-Jacksonville, Chicago-Indianapolis-Cincinnati, Detroit-Chicago, Chicago-St. Louis, St. Louis-Kansas City, Milwaukee-Minneapolis, Seattle-Portland, Oklahoma City-Dallas-Houston, Memphis-New Orleans, San Diego-Los Angeles, and Oakland-Sacramento.

Governors may well decide that transportation needs in these corridors demand priority, and that the best answer is not further highways but a balanced system including commuter and intercity rail.

Governors and mayors throughout the Nation also are becoming aware of the relationship of more highways and more autos to clean air and 67 cities will have to reduce auto traffic to meet Clean Air Act standards and many are not east coast or west coast cities. They are from the heartland of the Nation.

The seriousness of the situation cannot be overlooked by citizens or Congressmen. The automobile and its concrete carriers are directly responsible for at least 39 percent of the Nation's air pollution, and up to 80 percent of the air pollution in some of our major cities, such as Washington.

The President's Council or Environmental Quality stated:

> The annual toll of air pollution on health, vegetation, materials, and property values has been estimated by the Environmental Protection Agency at more than $16 billion annually—over $80 for each person in the United States. In all probability, the estimates of the cost will be even higher when the cost of discomfort from illness is considered and when damage can be more precisely traced to pollutants.

Our failure to examine the concrete dream has produced federally financed highways that are laden with air pollution to such an extent that our health authorities may not allow us to drive on them. Only 2 weeks ago, EPA Director William Ruckelshaus proposed rationing of gasoline consumption in Los Angeles by 1975 to reduce auto use by some 80 percent during the summer months. A major city is being told to kick its autos off the streets if it wants to assure an adequate supply of clean air to its citizens.

While Los Angeles may be unique in its geographical and meteorological characteristics, the essential element remains: almost total reliance on highways and the automobile to meet transportation requirements has produced a host of environmental, social and economic disasters in its wake.

The critical issue to be decided is whether we will give the mayors and the governors new options to enable them to meet these problems.

Whether urban metropolis or rural America, local and State officials have the best understanding of the transportation priorities of their regions. And they must have the capability to blend together highways and mass transit in a balanced transportation system if we are to meet the Nation's transportation requirements.

I believe the bill we have introduced permits them to make those choices by making significant strides toward matching Federal resources with Federal transportation needs.

Let me say first what this bill does not do: It does not touch a cent of the $3.25 billion a year estimate of the funds needed to complete the Interstate System. Nor does it mandate a single mass transit system. Nor does it mandate an end to a single highway. But what it does do is provide options.

First, it would permit the noninterstate moneys authorized out of the highway trust fund to be spent either for highways, as they are now, or for acquisition,

construction, reconstruction, improvement, operation, or maintenance of public transportation systems, including rail transit. This bill would authorize $2.75 billion for fiscal year 1974 and $3.25 billion for the following 5 years.

The decision how to use the money would be based on a locally determined comprehensive transportation plan.

Second, while it would provide sufficient funds to meet the Department of Transportation estimate of $3.25 billion to complete the Interstate System for each of the next 6 years, it also would do the following:

It would direct a review of existing interstate routes as well as authorize a halt to some interstate routes through urban areas. Where cities and States concurred, the interstate route could be altered but the funds would continue to be used in those areas for carrying out transportation projects, including mass rail transit, if that is the local choice.

It would, as did the committee bill recently introduced, require that the new transportation plan provide for assuring the continuation of the interstate system around a city through a bypass or beltway.

These provisions are particularly critical since some $17.5 billion of the $30.7 billion remaining to complete the interstate system involve urban segments, segments which cost up to $100 million per mile to build and which often carry unacceptable environmental, social and economic consequences in their wake.

Thus, in Boston, after a 33-month exhaustive study, the Governor concluded that it was in the public interest to put a permanent moratorium on interstate routes planned through the Boston metropolitan area. Instead, he opted, and wisely I believe, for a plan that concentrated on mass transit. Highways still will be constructed but not through urban neighborhoods or scarce parklands or historic sites.

Similar actions appear likely in a host of other cities where routes have been stalled by citizen and court actions.

In all of these areas, present law prohibits money allocated for highway routes to be used for any other purpose. If it is not used to complete the original route, then it is reallocated to another area. Nor is the bill introduced by the committee an adequate answer since it still prohibits a single dollar of those funds from being used for mass rail transit.

Our bill would remedy this flaw, permitting the completion of an interstate network and at the same time promoting urban transportation solutions.

Third, the allocation formula embodied within the bill apportions 90 percent of the non-interstate funds to the States. Half of this amount would be administered by State Governors, and the other half would be passed through by Governors directly to local governments in the metropolitan areas where some 73 percent of our citizens reside.

The remaining 10 percent of the funds will be available for grants by the Secretary at this discretion for the purposes of the act but with priority to be given to regional planning assistance, development of emergency systems to meet ambient air quality standards of the Clean Air Act and emergency relief programs for areas hit by natural disasters.

The money allotted to large urban areas would be apportioned to each of the 233 SMSA's on the basis of population. The money allotted to the Governors would be expended in the State as part of the State comprehensive plan.

Fourth, comprehensive planning requirements are spelled out in an effort to make the intent of title 23 effective. Balanced transportation planning—that is, planning which has as its objective, the solution of transportation problems with a combination of roads, rail, and buses that makes the most sense—could not develop when adequate funding existed only for the construction of highways. Without access to sufficient funding, transportation planning will remain an empty exercise for planners.

The planning section requires State and areawide planning, comprehensive review and the preeminence of local planning agencies to develop an adequate transportation system.

The State plan must be approved by the Governor of the State and administered by a single agency. A prerequisite to DOT approval is considered by the state of social, environmental, and economic impacts of various mixes of transportation modes for solving transportation problems.

This year's measure does not mandate the formation of metropolitan transportation agencies but it does strengthen and encourage them. In this new planning process, elected officials and citizens would be involved in planning from its inception. Elected authorities would participate in the management of the planning agency and they would have voting power proportional to their population.

Finally, the key to this legislation is that it provides flexibility to local and State decisionmakers on how to meet their transportation needs and it assures adequate funds to permit the creation of a balanced transportation system. It does not mandate more mass transit and less highway construction. But for the first time, it does not distort the planning process by tempting financially pressed cities and States with Federal dollars for highways and virtually nothing for any other transportation programs.

In many cities and States, highways will continue to be the primary mode of ground transportation. These areas will have funds for building highways. But what is equally important, cities and States who choose mass rail transit also will find an equal number of Federal dollars available to them.

I ask unanimous consent that the bill be printed in the RECORD immediately following these remarks.

I also ask unanimous consent that several articles on the transportation crisis be printed in the RECORD.

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

S. 679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Highways and Related Transportation Systems Improvement Act of 1973".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that highway congestion, air pollution, and related safety problems are increasingly impairing the efficiency of the Nation's highway system; that the efficiency of the Nation's highway system can be improved by developing highway or related transportation systems which are tributaries to and supportive of highways; and that highways and related systems can be improved best by according to the States and local communities greater flexibility in the use of Federal assistance for highways.

DEFINITIONS

SEC. 3. Section 101(a) of title 23, United States Code, is amended as follows:

(1) After the definition of the term "forest highway", add the following new paragraphs:

"The term 'Governor' means the chief executive officer of the State.

"The term 'highway or related transportation service' means (1) the acquisition construction, reconstruction, improvement, operation or maintenance of highway, bicycle paths, pedestrians walkway, equestrian trail, traffic control, or public transportation systems, facilities, or equipment (including safety facilities and equipment; (2) planning, training, research, development, and demonstration activities for such activities, and highway safety program activities; and (3) beautification, relocation, and environmental protection activities associated with any activity set forth in clause (1) or (2) of this paragraph."

(2) After the definition of the term "maintenance", add the following new paragraphs:

"The term 'metropolitan area' means a standard metropolitan statistical area as designated and defined by the Office of Management and Budget.

"The term 'population' means the total resident population based on the most recent data compiled by the Bureau of the Census and referable to the same point or period of time.

"The term 'unit of general local government' means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision of a State."

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 4. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1974, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1975, and the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1976", and by inserting in lieu thereof the following: "the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1974, additional sum of $3,250,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1978, and the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1979."

INTERSTATE SYSTEM APPORTIONMENTS

SEC. 5. The Secretary is authorized to make the apportionment for fiscal years 1974 and 1975 of the sums authorized to be appropriated for such years for expenditure on the National System of Interstate and Defense Highways, using the apportionment factors

contained in table 5, House Committee Print Numbered 92-29.

EXTENSION OF TIME FOR COMPLETION OF INTERSTATE SYSTEM

SEC. 6. (a) The second paragraph of section 102(b) of title 23, United States Code, is amended by striking out "twenty years" and inserting in lieu thereof "twenty-three years" and by striking out "June 30, 1976", and inserting in lieu thereof "June 30, 1979".

(b)(1) The introductory phrase and the second and third sentences of section 104(b)(5) of title 23, United States Code, are amended by striking out "1976" each place it appears and inserting in lieu thereof at each such place "1979".

(2) Such section 104(b)(5) is further amended by striking out the sentence immediately preceding the last sentence and inserting in lieu thereof the following: "Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1976, and June 30, 1977. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1976. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending June 30, 1978, and June 30, 1979."

INTERSTATE SYSTEM ADJUSTMENTS

SEC. 7. (a) The fourth sentence of subsection (e)(2) of section 103 of title 23, United States Code, is amended to read: "The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph; such costs shall be that as of the date of the withdrawal."

(b) Paragraph (2) of subsection (e) of section 103 of title 23 of the United States Code is amended by adding at the end thereof the following: "The authority granted by this paragraph shall expire on the date of enactment of the Highways and Related Transportation Systems Improvement Act of 1973."

(c) Subsection (e) of title 23, United States Code, is amended by adding the following:

"(4) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title prior to the enactment of this paragraph, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) or will no longer be essential by reason of the application of this paragraph and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of such interstate route or portions thereof within that State as provided in this subsection necessary to provide the essential connection of the Interstate System in such State in lieu of the route or portions thereof which were withdrawn. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph. Such costs shall be that as of the date of the withdrawal. Whenever the Secretary determines that such routes or portions thereof are not essential or whenever the amounts necessary for the completion of the substitute essential routes or portions thereof are less than the cost of the withdrawn route or portions thereof, the amounts remaining or the difference shall be transferred to and added to the amounts apportioned to such State and metropolitan area, in which the segment was to have been constructed, for expenditure pursuant to chapter 6 of this title, except that the Federal share of project costs shall be the same as for the Interstate System."

HIGHWAY BEAUTIFICATION

SEC. 8. (a) Section 131(b) of title 23, United States Code, is amended by inserting immediately preceding the penultimate sentence thereof the following: "Federal-aid highway funds appropriated to a State after the first expiration occurring after January 1, 1974, of a regular session of the State legislature shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to the State under section 104 of this title, until such time as the State shall provide for effective control, if the Secretary determines that the State has not made provision for effective control, of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices, the advertising or informative content of which can be seen from the main traveled way of the system."

(b) Section 131(d) of title 23, United States Code, is amended by striking out "within six hundred and sixty feet to the nearest edge of the right-of-way" by inserting in lieu thereof "at any location."

(c) Section 131(m) of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $2,000,000 for the fiscal year 1970, not to exceed $27,000,000 for the fiscal year 1971, not to exceed $20,500,000 for the fiscal year 1972, and not to exceed $50,000,000 for each of the fiscal years 1973, 1974, and 1975. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

(d) Section 136(m) of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $3,000,000 for each of the fiscal years 1970, 1971, and 1972, not to exceed $5,000,000 for fiscal year 1973, and not to exceed $7,000,000 for each of the fiscal years 1974 and 1975. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

NEW PROGRAM AUTHORIZATION

SEC. 9. Title 23, United States Code, is hereby amended by adding at the end thereof the following new chapter:

"CHAPTER 6—HIGHWAYS AND RELATED TRANSPORTATION SERVICES IMPROVMENT PROGRAM

"Sec.
"601. Creation of program.
"602. Authorization.
"603. Allocation formula.
"604. Comprehenhive State and local transportation plans.
"605. Records, audit, and reports.
"606. Recovery of funds.
"607. Rules and regulations.
"608. Annual report.
"609. Application of Civil Rights Act of 1964.
"610. Relocation assistance.
"611. Highway safety programs.

"CREATION OF PROGRAM

"SEC. 601. There is hereby created a highways and related transportation services improvement program under which the Secretary of Transportation shall be authorized to apportion Highway Trust Funds to States and local governments to aid them in operating maintaining and making improvements to highways and related transportation facilities including public transportation services. Recipients are authorized to use funds received in accordance with this section for the construction of facilities and the acquisition of public transportation equipment for highways and related transportation services within the responsibilities of governmental and quasi-governmental agencies in Standard Metropolitan Statistical Areas if such activities are performed in accordance with a State or local transportation plan authorized in section 604.

"AUTHORIZATION

"SEC. 602. There are authorized to be appropriated for the highways and related transportation services improvement program, out of the Highway Trust Fund, $2,750,000,000 for the fiscal year ending June 30, 1974, and the additional sum of $3,250,000,000 for each of the fiscal years 1975, 1976, 1977, 1978, and 1979.

"ALLOCATION FORMULA

"SEC. 603. (a) For each fiscal year beginning after June 30, 1973, and ending prior to July 1, 1980, the Secretary, after consultation with the Secretary of the Treasury, shall apportion 90 per centum of the funds authorized to be appropriated under section 602 among the States as follows:

"(1) 50 per centum in the ratio which the population in metropolitan areas in each State bears to the total population in metropolitan areas in all States;

"(2) 25 per centum in the ratio which the population of each State bears to the total population of all States; and

"(3) 25 per centum in the ratio which the square root of the area of each State bears to the sum of the square roots of the areas of all States. No State shall receive less than one-half of 1 per centum of each year's total allocation to the States under this subsection.

"(b) The remaining 10 per centum shall be available for grants by the Secretary at his discretion for any highway or related transportation service he deems appropriate, but priority shall be given to assisting State, local, and regional government entities in developing and implementing comprehensive transportation plans, developing emergency systems to meet the amb.ent air quality standards of the Clean Air Act, constructing and improving bridges, financing research,

development, and demonstration projects, and emergency relief repairs and reconstruction of serious damage resulting from natural disasters and catastrophic failures from any cause.

"(c)(1) Funds apportioned to a State pursuant to section 603(a)(1) shall be reapportioned by the State directly to metropolitan areas within the State in the ratio which the population of each metropolitan area bears to the total population of all metropolitan areas within the State.

"(2) Funds allocated to any metropolitan area under section 603(a)(1) shall be available for expenditure in another urbanized area within such State only where the responsible public officials in both such urbanized areas agree to such availability.

"(3) Where the units of general purpose local government in any urbanized area shall combine together under State law to create a metropolitan transportation agency, with sufficient authority to develop and implement a plan for expenditure of funds allocated to such urbanized area pursuant to this section, funds allocated to those units of local government under section 603(a)(1) shall be available to such metropolitan transportation agency for projects authorized by this chapter in accordance with a State or local transportation plan approved under section 604.

"(4) A transportation agency shall be considered to exist when an allocation for the purposes of transportation planning has been created by the unit or units of general local government within the metropolitan area which represent at least 75 per centum of the total population of the metropolitan area and include the largest city. In addition each transportation agency shall have (A) representation in its executive management of the highest appropriate elected official of each participating unit of general purpose local government or, in the case of the District of Columbia, representation of the Commissioner; (B) a citizen advisory board composed of representatives of citizen groups; (C) planning authority for all urban surface modes of transportation; (D) proportional voting based on population; and (E) authority to develop the program of projects required under section 604, except that implementation of such projects may be carried out by units of local government.

"(5) Where a State reduces its allocations to support highways or related transportation services of any local government below the level of assistance which the services within the jurisdiction of that local government received in the fiscal year ending immediately preceding the date of enactment of this section, that State shall have its allocations under sections 603(a)(2) and 603(a)(3) reduced by a like amount, unless the State can demonstrate to the Secretary special circumstances which warrant such reduction in assistance."

"COMPREHENSIVE STATE AND LOCAL TRANSPORTATION PLANS

SEC. 604. (a) A State shall be eligible to receive its allocation pursuant to section 603(a)(2) and (3) for any fiscal year if it has a comprehensive State and local transportation plan approved by the Secretary under this section. Such plan shall:

"(1) provide for the development, maintenance, and operation of highways and related transportation services responsive to the needs of such State and its communities;

"(2) be coordinated with local community development plans and take into consideration the social, economic, and environmental impact of the available transportation alternatives and assure adequate citizen involvement in the planning process through public hearings and related activities; and

"(3) include a program of projects to be undertaken with funds appropriated under 603(a)(2) and (3), such program to be submitted annually to the Department of Transportation.

"(4)(A) be approved by the Governor of each State and (B) be reapproved with any recommended revision by a similar procedure within a period of not more than two years from the previous approval or reapproval; and

"(5) be administered by a single State agency with authority for preparation and execution of such State's comprehensive transportation plan and for transportation policy and programs generally in such State.

"(b) State and metropolitan plans shall show how they comply with the Clean Air Act.

"(c) The Secretary shall not finally disapprove any State or metropolitan plan submitted under this chapter, or any modification thereof, without first affording the State or metropolitan administering agency reasonable note and opportunity for a hearing.

"(d) Not to exceed 3 per centum of the allocation of each State or metropolitan area under this chapter may be expended for planning and administration of the planning program.

"RECORDS, AUDIT AND REPORTS

SEC. 605. (a) All funds allocated under this chapter shall be properly accounted for as Federal funds in the accounts of the recipients.

"(b) In order to assure that funds allocated under this chapter are used in accordance with the provisions of this chapter, each recipient shall—

"(1) use such fiscal and accounting procedures as may be necessary to assure (A) proper accounting for obligations incurred and payments received by it, and (B) proper disbursement of such amounts;

"(2) provide to the Secretary, on reasonable notice, access to and the right to examine any books, documents, papers, or records as he may reasonably require; and

"(3) make such reports to the Secretary as he may reasonably require.

"RECOVERY OF FUNDS

"SEC. 606. (a) If the Secretary determines after giving reasonable notice and opportunity for hearing that a recipient has failed to comply substantially with the provisions of this chapter he shall—

"(1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action will be instituted; or

"(2) notify the recipient that if corrective action is not taken within sixty days from the date of notification, funds allocated to it will be reduced in the same or succeeding fiscal year by an amount equal to the amounts which were not expended in accordance with the provisions of this chapter; or

"(3) take such other action as may be provided by law.

"(b) When a matter is referred to the Attorney General pursuant to subsection (a)(1) of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"(c)(1) Any recipient which received notice of reduction of funds allocated under subsection (a)(2) of this section may, within sixty days after receiving notice of such reduction, file with the United States court of appeals for the circuit in which such recipient is located or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in litigation.

"(2) The Secretary shall file in the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless the objection has been urged before the Secretary.

"(d) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendations, if any, for the modification or setting aside of his original action.

"(4) Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

"RULES AND REGULATIONS

"SEC. 607. The Secretary shall prescribe such rules, regulations, and standards as may be necessary to carry out the purposes and conditions of this chapter.

"ANNUAL REPORT

"SEC. 608. The Secretary shall make an annual transportation report to the President and the Congress pertaining to transportation requirements and to the effectiveness of programs authorized under this chapter.

"APPLICATION OF CIVIL RIGHTS ACT OF 1964

"SEC. 609. Funds allocated under this chapter shall be considered as Federal financial assistance within the meaning of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

"RELOCATION ASSISTANCE

"SEC. 610. Notwithstanding the provisions of section 211 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), no Federal contribution in addition to funds allocated under this chapter shall be provided for relocation payments and assistance for those displaced by transportation activities assisted under this chapter.

"HIGHWAY SAFETY PROGRAMS

"SEC. 611. Nothing in this chapter shall be interpreted as repealing the requirements in section 402(a) of this title respecting the establishment by States of highway safety programs approved by the Secretary. For the purposes of the sixth sentence of section 402(c) of this title the phrase 'Federal-aid highway funds apportioned' shall mean funds apportioned pursuant to section 104(b)(5) of this title.

"LABOR STANDARDS

"SEC. 612. (a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary shall not approve any such loan or grant without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

"(b) The Secretary of Labor shall have,

with respect to the labor standards specified in subsection (a), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133–15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"(c) It shall be a condition of any assistance to mass transit systems under section 601 of this chapter that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by such assistance. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise; (2) the continuation of collective-bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5 (2) (f) of the Interstate Commerce Act (49 U.S.C. 5 (2) (f)). The contract for the granting of any such assistance shall specify the terms and conditions of the protective arrangements."

[From the U.S. News & World Report, Jan. 29, 1973]

TO CLEAR THE AIR—LAWS MAY LIMIT YOUR DRIVING

You can expect radical changes in the way you use your car, and in the car itself, if plans now being prepared to cleanse the nation's air go into effect on schedule.

An extreme example of just how severe such shifts could be came in the disclosure on January 15 of the Federal Government's program to bring smog in Los Angeles under control by 1977.

The key to that program: a system of gasoline rationing that would reduce driving by more than 80 per cent during the smog-prone months of May through October.

Another essential of the Los Angeles plan would be the installation of anti-pollution devices on all vehicles now in use at a cost of $200 to $400 each.

Measures to clean up the air in the rest of the U.S. will not be as severe as those needed in southern California. But 27 other major urban areas in 18 States—listed elsewhere on this page—expect to impose some curbs on how, when and where cars and trucks can be driven.

Ideas being proposed for these localities include massive expansion and improvement of bus systems, special tax breaks or reduced toll rates for car pools, staggered work hours, daily taxes on commuters' cars and severe restrictions on parking.

Additionally, all new vehicles starting with 1975 models must include sophisticated pollution controls that reduce emissions by 97 per cent from the uncontrolled vehicles of the early 1960s. These devices will boost auto prices at least $275 over today's models.

DEADLINE: 1977

All of these actions come as a result of the Clean Air Act of 1970, in which Congress drew up a schedule designed to end air pollution by 1977 at the latest.

Under this law the Environmental Protection Agency set a national standard for air quality. Nowhere, the agency ruled, should pollutants exceed .08 parts per million in any single hour. Details were to be worked out at local levels for federal approval.

At immediate issue are reductions in carbon monoxide, hydrocarbons and nitrogen oxides, all of which come mainly from automobiles. Photochemical smog—the Los Angeles type—is formed when hydrocarbons and nitrogen oxides react in sunlight.

States had to submit preliminary plans a year ago but were given until February 15 of this year to work out any necessary controls over transportation. If they fail, the EPA must tackle the job.

Los Angeles authorities declared that they could not solve their problem within the time allowed and tossed it back to the Agency.

In addition to rationing and installation of pollution-control devices on individual cars, the Los Angeles plan would require converting all fleets of 10 or more autos or trucks to some fuel other than gasoline. Also required would be annual vehicle inspections to check whether pollution controls were working—with mandatory repair if they weren't.

EPA Administrator William D. Ruckelshaus said that, although he had "grave reservations" about the feasibility of the plan, there was no way to meet the pollution limits in the Los Angeles area without severe cutbacks in driving and that this could best be accomplished by stringent gasoline rationing.

"The question of whether people will buy an 80 percent traffic reduction is crucial," Mr. Ruckelshaus said. "Maybe the law has to be changed. But let's go through the political process."

LIKE PROHIBITION?

The plan is preliminary, subject to public hearings and modification. Reaction—most of it adverse—came immediately.

Senator John Tunney (Dem.), of California, said the proposal would turn Los Angeles into a "20th Century ghost town." Mayor Sam Yorty called it "simply impossible." Peter Schabarum, chairman of the Los Angeles County Board of Supervisors, said: "It would be like destroying the community in order to save it." A. J. Haagen-Smit, chairman of the State Air Resources Board, called it "worse than Prohibition."

But Dr. James N. Pitts, Jr., director of the Air Pollution Research Center at Riverside, Calif., welcomed the plan as an opportunity "for a national debate on how much we Americans are willing to alter our lives to achieve clean air."

Final plans—in California and elsewhere—appear likely to echo Dr. Pitts, who says that "incredible changes" in the way people live will be required to solve the problem of air pollution.

WHERE PLANS ARE AFOOT TO RESTRICT CARS

All told, 28 urban areas in the U.S. are working on plans that may involve rationing the use of cars and trucks. They are, in addition to Los Angeles:

Alaska: Fairbanks.
Arizona: Phoenix, Tucson.
California: San Francisco Bay, Sacramento Valley, San Joaquin Valley, San Diego.
Colorado: Denver.
District of Columbia: Washington.
Maryland: Baltimore and Washington suburbs.
Illinois: Chicago.
Massachusetts: Boston.
Minnesota: Minneapolis-St. Paul.
New York, New Jersey, Connecticut: Metropolitan area of New York City.
Pennsylvania: Philadelphia, Pittsburgh.
Nevada: Las Vegas.
Ohio: Dayton.
Oregon: Portland.
Texas: San Antonio, Dallas-Fort Worth, Austin-Waco, Corpus Christi-Victoria, Houston-Galveston, El Paso-Las Cruces (N.M.).
Utah: Salt Lake City.
Washington: Seattle, Spokane-Coeur d'Alene (Ida.)

Source: U.S. Environmental Protection Agency.

[From the Washington Post, Jan. 16, 1973]

RATIONED GAS PROPOSED FOR AUTOS IN L.A.

(By Leroy F. Aarons)

LOS ANGELES, January 1.—The nations environmental protection administrator, William D. Ruckelshaus, today proposed a system of gasoline rationing for the Los Angeles area that would curtail automobile use by up to 82 percent during summer months, when pollution is heaviest.

The dramatic proposal, the first of its kind for any U.S. city, is certain to stir enormous controversy. While emphasizing that "now is not the time for emotional responses, not the time for panic," Ruckelshaus told a jam-packed news conference that part of his strategy was "to force the public to confront this issue" of air pollution.

Ruckelshaus made it clear that he would like greater flexibility under the 1970 Clean Air Act to deal with unique areas such as Los Angeles. There has been speculation among environmentalists that the gas rationing proposal would be used as a weapon by those seeking to weaken the act.

But Ruckelshaus insisted that while he perhaps would like to see certain changes, "if the result (of this proposal) were to convince people that the act itself was a bad act, it would be very unfortunate."

Moreover, Ruckelshaus indicated he himself didn't have much stomach for the proposal, emphasizing that this is the only practical plan "at this time" that will reach legal air standards by 1977. He said it could severely disrupt the economic and social fabric of an area that is uniquely dependent on the automobile.

In calling for public hearings within the next 60 to 90 days, he indicated that the public must decide, "through the political process," whether other methods—such as mass transit—or revision of the law to provide more time or reduced standards, should be sought.

The rationing proposal was denounced as "illogical and impractical" by Los Angeles County's chief air pollution control officer, Robert L. Chass.

"It would be a little like destroying a community to save it. It would shut down the community. It would have a serious impact on all aspects of life. Essentially, it is not a solution," Chass said.

The Environmental Protection Agency's gas rationing proposal was part of a larger package of proposals announced in response to an order by a U.S. District Court judge in California.

The court acted on the petition of several plaintiffs, including the cities of Riverside and San Bernardino, in the Los Angeles Basin. The plaintiffs asked that EPA be ordered to submit a plan that would meet the national standards under the 1970 Clean Air Act of .08 parts per million of photochemical oxidants in the Los Angeles area.

The state of California's original plan was rejected by the EPA, and a revised plan is not due until Feb. 15. The U.S. District Court had ordered Ruckelshaus to submit his plan by today.

Under the EPA plan, gas rationing would be effective during the high-smog months, May through October. The degree of rationing might vary from month to month, but the expected maximum would curtail auto use 82 per cent.

Ruckelshaus did not spell out such details as how much gasoline each motorist would be allowed, leaving this to be worked out later.

There would be one of two alternative methods of rationing: issuance of gasoline coupons to the public, or restriction of distribution of gasoline to retail outlets.

The gas rationing system would be phased in, Ruckelshaus said, over a period of two years, beginning in 1975, so it could be fully implemented by 1977, California's target date for meeting the Clean Air Act standards.

The Los Angeles area exceeded the .08

standard in 1970 on at least 250 days, reaching a maximum of .62 ppm in Riverside.

Under the Clean Air Act transportation control measures are required for any region where automobile emission controls and stationary pollution controls are not enough to reduce pollution to required levels.

Ruckelshaus said that even with stepped-up emission controls and stationary source controls proposed in today's package there would still be an excess of roughly 270 tons of hydrocarbon effluent emitted daily during the high-pollution months in the Los Angeles Basin. Gas rationing would eliminate this excess.

The region is unique, he added, in that it is geographically and meterologically closed.

"The encircling mountains and frequent inversions hold in pollutants, and the Southern California climate provides ample sunshine to aid the formation of photochemical smog. The automobile is by far the dominant mode of transportation. For example, in 1972, the South Coast Air Basin contained over 10 million persons and nearly 6 million motor vehicles."

The current rate of population growth is 1.7 per cent per year, Ruckelshaus said—but the automobile population increases 3 to 4 per cent annually and gasoline consumption grows at the rate of 4.5 per cent each year.

Ruckelshaus conceded that his plan would severely disrupt the Southern California area. "Reduction in the mobility of workers and consumers could have a major impact on the economic fabric of the community," he said. "Interference with the ability of citizens to move as freely will alter the lifestyle of the region. . . . Cost of doing business may rise to an unknown extent."

"I am proposing a strategy," he said, "but by no means saying we have exhausted all the other means. Other strategies we have not proposed should be examined by the public. . . . We believe [for example] that very serious, intelligent investigation of mass transit here in Los Angeles is very important."

He added that the community must weigh the social costs against the benefit of achieving healthy air within the time frame.

"If the economic and social dislocation of the people of this community is severe, then their representatives in Congress may see a need for stretching out the time limit in meeting those standards.

"I don't know if reducing traffic by 80 per cent is possible if you're still to have a viable community.

"It takes something like this to get people to focus on the nature of the problem. The national [Clean Air] act is a great success, but because 5 per cent of it may not be working doesn't mean you ought to junk the whole act. But this is not to say I would not like more flexibility."

Ruckelshaus also conceded that there are questions as to EPA's "authority and capacity" for implementing the proposal. "These questions," he said, "include the extent to which state or local governments should be required to perform functions contemplated by the proposal and the difficulties involved in federal or state enforcement of the plan."

In addition to gas rationing, the proposal calls for:

Annual car inspections, using dynamometers, to insure vehicles are operating at lowest pollution levels.

Use of retrofit devices to prevent evaporation of gas from gas tanks and car carburetors of 1966–69 cars and 1966–67 trucks.

All 1971–74 cars and trucks in fleets of ten or more would be required to convert to low-polluting fuels such as natural gas.

On stationary sources, vapor recovery systems to prevent gasoline evaporation at service stations, changes in the substance used in industrial depressing operations, and a system to prevent evarporating of solvents into the air at dry cleaners.

[From the New York Times Magazine, Oct. 15, 1972]

THE UNTRUSTWORTHY HIGHWAY FUND

(By William V. Shannon)

After years of skirmishing, border raids and local guerrilla actions, the great highway struggle has broken out in open warfare. At issue is the fate of the Highway Trust Fund, which grows by more than $5-billion a year, pumps money into the states to build more roads for more automobiles and has had more to do with determining the physical character and social style of America's cities and suburbs than any other Government program.

The Trust Fund, established in 1956, receives the revenue from a 4-cent levy on every gallon of gasoline sold, as well as from Federal taxes on the sale of trucks, tires and other highway-related items. Since the number of vehicles on the road and the amount of gasoline sold increase every year, the fund's income grows inexorably. It was $4.6-billion in 1969, $5.4-billion in 1970, and $5.7-billion last year. Because spending on highway construction does not always keep pace with this annual golden flow, the fund has built up a surplus of nearly $4-billion. Not only is the Treasury forbidden to tap that money for any other purpose, but it pays the fund approximately 5 per cent interest on the unexpended balance.

Critics of the automobile's long supremacy in the nation's transportation system are out to break the Trust Fund. They believe that this easy, automatic flow of money to the states from the Trust Fund for the sole purpose of highway construction has a profoundly distorting effect on the nation's transportation priorities and, indirectly, on the present and future development of cities and their suburbs.

The first major battle came in the Senate in late September when the Federal-Aid Highway Act of 1972 reached the floor. The antihighway forces scored a small but significant victory. By the surprisingly wide margin of 48 to 26, the Senate voted to permit the states to use up to $800-million a year from the Highway Trust Fund for construction of various kinds of mass transit. Because the bill had come from the Public Works Committee, this money could only have been spent to buy buses and build bus lanes. The effect of the amendment offered by Senators Edmund S. Muskie, Maine Democrat, and John Sherman Cooper, Kentucky Republican, was to permit expenditures for subways, commuter railroads and other rail projects. This sum is only a modest proportion of the total annual highway appropriation of more than $7-billion, but except for safety and beautification projects, it was the first time either house of Congress had ever voted to divert any part of the Trust Fund revenues for anything except highway construction.

The ultimate aim of the antihighway forces is to abolish the Trust Fund or convert it into a general transportation fund. As a first step toward this objective, Senators Edward Kennedy, Massachusetts Democrat, and Lowell Weicker, Connecticut Republican, offered an amendment opening up nearly half of the Trust Fund's revenues for any transit use which metropolitan areas choose. As expected, it was overwhelming defeated, but it laid down the lines along which the coming struggle over national transportation policy will be waged. It is a struggle with a long history, but only in the last decade has it gained real intensity at the local and state level and finally become a national issue.

The Federal Government began helping to finance the construction of highways in 1916, and most of the basic procedures still in use were laid down at that time. Each state selects its own routes and highway designs, manages the construction and pays for the maintenance. The Federal Government reviews each project and can prohibit the use of Federal money for roads or sections of road of which it disapproves. After the state pays the construction costs, it is reimbursed by Washington for the Federal share, which is 50 per cent.

Near the end of World War II, Congress authorized a long-term program to construct highways of three types: (A) major highways, (B) farm-to-market and feeder roads and (C) roads within built-up urban areas. This A.B.C. program, as it is known in the highway trade, is open-ended. There is no specified number of miles to be built and no target date for completion. It remains the basic Federal highway progam, and about $1-billion in Federal funds are spent on it every year.

Much better-known is the Interstate program, which Congress approved in 1956. The objective was to link every city of 50,000 persons or more with a continuous system of modern, limited-access superhighways of uniform quality. When this 41,000-mile network was completed, it would be possible to drive from Maine to California without hitting a traffic light. It was to cost $27 billion and be completed in 1969, but costs have ballooned. It is now a 42,500-mile system, expected to cost $68 billion (and probably more) and to be finished in 1980. To lure the states into full cooperation, the Federal share of the cost was upped from 50 per cent to 90 per cent.

The decision to build the Interstate was easily the most significant act of the Eisenhower Administration. It was sold to the President and Congress partly as a defense measure. (Its full name is the National System of Interstate and Defense Highways.) Since the Eisenhower Administration always fretted about the unbalanced budget, it was decided to keep the program out of the regular budget and pay for it by setting up the Trust Fund, for which certain tax revenues would be earmarked. (Under the new consolidated budget introduced by the Johnson Administration, which takes account of Trust Fund expenditures and receipts, this gimmick makes no difference, but under the old budget procedures followed in 1956, the masking of these large expenditures was a considerable factor.)

This earmarking of taxes was a successful maneuver which highway forces had pioneered in the states during the nineteen-twenties and thirties.

Forty-five of the 50 states have either constitutional or statutory restrictions on the use of gasoline taxes for any purpose except highway construction and maintenance. Getting those restrictions repealed has been part of the guerrilla fighting between prohighway and antihighway groups in recent years.

Highway interests have naturally made skillful propaganda use of the phrase "trust fund." The illusion is carefully fostered that these highway user taxes were levied for highway purposes and that to divert them to any other use would be to break faith with millions of motorists. In fact, of course, several of these taxes were levied before there was a Trust Fund. They were part of the Government's general revenues.

If the Trust Fund were abolished, no one thinks the Treasury would stop collecting these taxes.

As Senator Gaylord Nelson, Wisconsin Democrat and a trenchant critic of the highway interest, likes to point out, no other Federal taxes are specially segregated. Tobacco taxes are not reserved for cancer research or alcohol taxes for the care of alcoholics. Nelson asks, "If annual appropriations from the general fund and full flexible control by the Congress are good enough for national defense, for housing, for education, why are they not good enough for highways?"

It is also worth noting that the Trust Fund

works like a one-way street. All money that goes into it has been used for highways, but not all highways are financed from it. The A.B.C. and Interstate programs are supported by the fund, but the Federal Government appropriates more than $300-million each year in addition to pay for roads in national forests, parks, Indian reservations, military installations and in a special program for Appalachia.

Critics have pointed out that when local, county and state highway spending is added to the Federal expenditure, the total is more than $17-billion a year, more than all these levels of government spend on housing, parks, recreation, sanitation and fire and police protection combined.

The Interstate system is now more than three-quarters completed. Its early years were greeted with fairly widespread approval. The American love affair with the automobile and therefore with good roads is a long romance. From the nineteen-twenties, when the automobile first came into its own, through the nineteen-fifties, most Americans were satisfied with the automobile as the ideal solution to the problem of personal transportation. If there were any problems, they were with the road—eliminate this blind curve or that railroad grade crossing, or widen it from two lanes to four. It is no accident that Congress approved the Interstate with no real controversy and by lopsided margins.

Good highways have opened up some rural and suburban areas for industrial development and, like the coming of the railroads in the last century, created economic booms in some localities. They have also made possible the consolidation of rural schools, quicker access to good medical and hospital care in an emergency and improved the marketing and distribution of perishable fruits, vegetables and other products.

But by the nineteen-sixties, Americans were becoming increasingly aware of the defects of life in the automobile age. Except in thinly populated areas like West Texas or the mountainous reaches of Wyoming, the idea of driving for pleasure has virtually disappeared. Early critics of the automobile like Lewis Mumford have begun to gain a much wider hearing. Fifteen years ago, Mumford wrote: "As long as motorcars were few in number, he who had one was a king; he could go where he pleased and halt where he pleased; and this machine itself appeared as a compensatory device for enlarging an ego which had been shrunken by our very success in mechanization.

"That sense of freedom and power remains a fact today only in low-density areas, in the open country; the popularity of this method of escape has ruined the promise it once held forth.

"In using the car to flee the metropolis, the motorist finds that he has merely transferred congestion to the highway and thereby doubled it. When he reaches his destination, in a distant suburb, he finds that the countryside he sought has disappeared: "Beyond him, thanks to the motorway, lies only another suburb."

The automobile explosion has begun to arouse the alarm already evoked by the explosion in human population. Every time a baby is born in this country, two automotive vehicles are also born. This prompted Walter Hickel, then Secretary of the Interior, to quip in 1970 that what the country needed was a birth-control pill for the automobile. "We are reaching the point where the automobile is becoming counterproductive. It is using up more resources and time than it is worth," Hickel said. "Rapid mass transit is the answer."

No pill having been invented yet, the number of automobiles has reached 92 million. There are also 202,000 buses, nearly 19 million trucks, and 1.6 million publicly owned vehicles of various kinds for a total of 112 million plus. The Department of Transportation estimates that these figures will climb to 138 million by 1980 and 162 million by 1990.

The appalling cost of a transportation system based upon tens of millions of private automobiles is gradually becoming apparent. The old Bureau of Public Roads, boasting about the Interstate System as "'America's lifeline," offered these facts:

Total excavations will move enough materials to bury Connecticut knee-deep in dirt.

New right-of-way needed amounts to one and one-half million acres.

Sand, gravel and crushed stone for the construction would build a wall 50 feet wide and nine feet high around the world.

The steel used will take 30 million tons of iron ore, 18 millions tons of coal and 6.5 million tons of limestone.

Lumber and timber requirements would take all the trees from a 400-square-mile forest.

Enough culvert and drain pipe is needed to equal the combined water and sewer systems in six cities the size of Chicago.

Facts like these, which once would have been innocently impressive, are seen as alarming in a time of new concern over the dwindling supply of natural resources and the mutilated landscape.

In addition, the human costs of an ever-expanding private car system have become dramatically apparent in recent years. It can be reckoned in the frayed tempers and lost time of traffic jams, the racking noise, the deadly smog of air pollution and, of course, the continuing toll of deaths and maimings in traffic accidents.

Senator Weicker points out that if this country were starting from scratch to build its transportation system, no public official would dare propose a system which kills 55,000 men, women and children every year and disables another two million. Weicker also stresses other risks of total reliance on automobiles: "In February 1969, one of the nation's transportation hubs—New York's Kennedy International Airport—was completely cut off from the rest of the world by snowstorm. Runways and roads were buried and there was no way out for people because although all highways lead to Kennedy, subways and rail lines do not."

And then there are the less visible, less dramatic costs. The aged, the very poor and older children and adolescents are penalized because they do not have cars and public transportation is often infrequent and unreliable. There are also the members of the new servant class—the suburban housewives—who drive their family's second car and so find that they have become involuntary chauffeurs. There is no other way to get their children to music lessons, dental appointments or friends' houses.

The need for alternative transportation systems is obvious: subways in big populated centers to move people quickly underground, high-speed commuter railroads to move morning and evening rush-hour traffic from the suburbs and perhaps an innovative network of minibuses or newly designed small vehicles that could move 8 or 10 passengers on flexible routes in cities and suburbs. Between cities, there is need for greatly improved passenger railroad service.

The public seems ready to support such reforms. A modest improvement in service in the form of the Metroliner increased passenger traffic on the railroad between New York and Washington by 46 per cent in the first year. If the roadbed were rebuilt, the trip could safely be cut to two hours or less, and there would be almost no limit to the increase in passenger traffic.

The Highway Users Federation for Safety and Mobility, a major group in the highway lobby, commissioned a public opinion survey by the Opinion Research Corporation and was embarrassed when the unsatisfactory findings were leaked to the opposition. Among the findings: Of the rural and urban people interviewed, 57 per cent said they "think it would be a good idea" to limit the use of automobiles in downtown areas of cities. Of people living in cities of one million or more in population, 66 per cent favored this idea.

To be sure, mass-transit facilities are expensive to build or renovate and few of them can be expected to operate at a profit; they would require a sizable Federal investment to build and a continuing subsidy to keep going. But the financing ought not to be a problem: If Congress in 1956 had decided to allocate half the money in the Highway Trust Fund to highways and the other half to mass transit, scores of bus companies would require a sizable Federal investment commuter railroads would not have sunk into weedy disrepair. From 1947 through 1970, the U.S. Government spent $58-billion for highways, $12.6-billion for airports and airline subsidies, $6-billion for waterways, and only $795-million, or 1 per cent, for urban mass transit.

Not only are the restrictions on Trust Fund moneys out of touch with changing public needs; spending within the highway program has been fantastically disproportionate. Of the huge sums expended on highways, the greater part has gone for the Interstate system, yet the actual pattern of travel can hardly justify such a heavy investment in high-speed superhighways. Americans travel about two trillion passenger miles in a year. (A passenger mile is one person riding one mile.) Nearly four-fifths of this traveling is done by car, and almost all of that (about 85 per cent) consists of short trips to and from work, to the store and on errands around town. The other 15 per cent is overnight trips out of town or trips of more than 200 miles in one day.

Since the Interstate system (which eats up 50 per cent of all Federal highway spending) primarily serves this other 15 per cent, it does not meet the major need of most motorists most of the time. That is why the A.B.C. program and the enormous state and local expenditures continue to be necessary. But the Interstate can serve those it does help only if it gets close enough to the cities. There is no way to push a six-lane highway with its huge ramps and clover-leaf interchanges into a city or even near one without huge expense and severe dislocations of people and businesses. Church parishes and college campuses are bisected; trees are leveled and parks engulfed in traffic; historic sites are obliterated or—as in parts of old Boston—made isolated and almost inaccessible.

By 1967, the Interstate program had completed 3,450 miles of urban expressways, had scheduled an additional 2,300 miles—and had citizen revolts blazing in almost every major metropolitan area.

Fights about the routing of Interstate highways brought about an unusual political coalition between the slum dwellers and the wealthy. There are two land corridors which appeal to highway planners in every city. One is a ribbon of park land often following a lake front or the course of a river. The other is a slum neighborhood where the cost of knocking down tenements and old commercial buildings is cheaper than it would be in a newer, more prosperous, middle-class neighborhood.

But park lands evoke the loyalty not only of many ordinary citizens but also of wealthy nature lovers, often conservative on other issues, who have the money and the personal friendships to mount an effectual local protest. These "petunia-planting esthetes, bird-watchers, and do-gooders," as one highway advocate has called them, have been the bane of highway engineers for decades. At the same time, ramming an expressway through a slum—which once meant through a passive, politically impotent community—now means a head-on battle with newly militant blacks.

Many ordinary white citizens grown weary of the daily commuting grind have joined the gold-coast-and-slum coalition in these antiexpressway protests. This is a political combine which worries mayors and governors who 20 years ago would have ignored complaints against their highway commissioners.

Overton Park in Memphis, Brackenridge Park in San Antonio, Shaker Lakes in Cleveland, the French Quarter in New Orleans, the Hudson River Expressway in New York, Three Sisters Bridge in Washington, D. C.—these and a score of other names have become historic battles in the civil war of the nineteen-sixties between the highway and antihighway forces. In zoning board and planning commission hearings, in city-council meetings and state-house conferences, on picket lines, and most of all, in the Federal courts they have fought, each side winning some and losing some, with other battles still in doubt.

The antihighway forces have triumphed often enough to turn a once lightly contested issue into a closely matched struggle. In the Overton Park case in Memphis, for example, they won a precedent-setting case requiring the highway planners to consider all other feasible alternatives before invading a park.

In all, 32 citizen suits are now pending in the Federal courts to block the continuation of Interstate highways into cities across the nation from Boston to Seattle. The Interstate system, the proud blue ribbon of the highway profession, has had the unintended effect of catalyzing diffuse antihighway sentiment and bringing into existence for the first time an effective national lobby against unlimited road building. The Highway Action Coalition (HAC) and its monthly newsletter, "The Concrete Opposition", speak for a congeries of national environmental organizations, innumerable *ad hoc* local groups and private citizens.

Though vocal and energetic, HAC is still far smaller in staff, financial resources, and political clout than its opposition spearheaded by the Highway Users Federation for Safety and Mobility. The highway lobby includes trade associations such as the National Crushed Stone Association, the National Association of Motor Bus Owners, the American Trucking Associations, the American Road Builders Association and the Associated General Contractors of America. It includes the nation's largest union, the Teamsters, and several construction unions whose members work on road projects. The American Automobile Association, nominally a broad-based membership organization representing millions of motorists but actually a self-contained, self-perpetuating pyramid of local club officials, gives the highway lobby the appearance of a mass base.

Probably more significant is the little-known American Association of State Highway Officials. The career bureaucrats who make up A.A.S.H.O. are mostly civil engineers who devote their lives to the construction and maintenance of highways. Nonpartisan themselves, they are accustomed to dealing with politically sophisticated highway contractors and with politicians who control the hiring of laborers and semiskilled employes in many highway departments. Most such departments have one or more career employes in each highway district who spend their time making speeches to service clubs and community organizations about the highway program and maintaining liaison with the local business community. Thus, when A.A.S.H.O. alerts its members about an upcoming fight in Congress, it activates a well-established network of respected professionals with influence in every city and town.

The state officials naturally have close links with Federal highway officials. These engineers are also construction-and-maintenance oriented. Their narrow focus accounts for the highway lobby's intransigent resistance to the use of Trust Fund money for any other purposes, even highway-related ones such as safety or beautification.

OUR NATIONWIDE TRANSPORTATION MESS

(By EDWARD M. KENNEDY)

A satellite photo of the United States traces narrow black ribbons of highway that criss-cross over mountains, around valleys and through cities. The neat lines seem to represent a carefully designed orderly arrangement attesting to human intelligence and ingenuity. Unfortunately, this rational orderliness disappears when one comes down to earth.

For, up close, we are aware that thousands of homes have been displaced by expressways. We are aware that two-thirds of our urban land area has been given over to the internal combustion engine, a gas-consuming, pollution-expelling predator. And we are aware that every major metropolitan region in the nation is slowly choking to death in the madness of the twice-a-day commuter stampede.

How is it that transportation in the U.S. can range from the sublime to the ridiculous? Our cars, trucks, trains, planes and ships carry more people and things more miles in more directions and at greater speeds than any other nations' do. Yet too often we spend more time in riding from our home to the airport than we do in flying to our destination.

How is it that our out-of-pocket payments for transportation totalled $200 billion last year—yet it takes longer today to get from Washington, D.C. to New York City by air than it did in 1953?

How is it that airlines are purchasing giant new airbuses at a cost of $15 million each—yet the planes now flying from coast to coast average 65 to 70 per cent empty seats on each flight?

How is it that the Federal Government spent $3.3 billion for interstate highways alone last year—yet the nation's mass transit companies lost over $350 million during the same period?

The depressing answer to all these depressing questions is that we have a hydra-headed transportation system consuming massive amounts of public and private funds annually and providing minimal amounts of benefit to the American people.

What's worse is that, although we know what is wrong, we have been unable to put a stop to it.

The U.S. Department of Transportation issued a national policy statement last fall asserting that the major by-products of our transportation "non-system" are: too many cars and trucks in urban areas, severe deterioration of local public passenger service, congestion of airplane traffic at airports and in the air, hazards to safety, decay of the environment and financial distress in key segments of the transport industry.

Most experts confirm that the Achilles heel of our transportation setup is that each mode of travel is linked to *separate* Federal and state building programs, each requiring *separate* planning and *separate* sources of financing. And each program has its own congeries of special interests hovering about like a swarm of jealous bees. The result has been the victory of the highway lobby and the defeat of a balanced transportation system.

No city, no state, no region is able to choose a plan with the right mix of road, rail and air services to fit its special circumstances and needs—and then obtain Federal aid to put it into effect. Instead, the Federal Government has channeled its resources in such a way that cities, states and regions are virtually coerced into constructing more highways as their "solution" to the transportation problem.

The Federal Highway Trust Fund is the main instrumentality for this coercion. Begun in 1956 to finance a $27 billion Interstate Highway System that was to be complete in 1972, it has grown to a $76-billion program that now is to be ended on Oct. 1, 1977. The fund's money has been exclusively earmarked for the construction and maintenance of highways. And already the highway lobby has started a campaign to continue the FHTF-financed paving of America beyond that date.

Thus far, the Federal Government has spent $53 billion from the fund—and the states have added another $164 billion—for road building alone. For all other modes and means of transportation, we have expended only a total of $29 billion during the same time period. This distortion of priorities is clearly shown when we look at the overall Federal transportation expenditure in a given year in 1970, some $7.7 billion was spent—62.9 per cent for highways, 20.9 per cent for aviation, 12.8 per cent for water travel, 2.8 per cent for mass transit and .6 per cent for intercity rail lines.

This year, once again, the tax revenues on motor fuel, rubber, trucks, trailers, lubricating oils, bus and truck parts, use of heavy vehicles, etc. will bulge to FHTF to some $5.7 billion. And once against the Administration will cut back on the paltry sums for urban mass transit that are available out of general revenues, forcing more of our public transit systems deeper into debt and preventing the construction of long-overdue rapid transit systems.

Back in October 1970, I introduced legislation providing for a National Transportation Trust Fund (S. 295) to establish a flexible way to permit the financing of a balanced nationwide transportation system. No action was taken on the bill and I reintroduced it at the start of the 92nd Congress a year ago.

Under the provisions of this bill, the FHTF would be dissolved and its revenues would go into the NTTF. Similarly, monies from the Airport-Airways Trust Fund and the Urban Mass Transit Administration also would funnel into the NTTF.

This combined financing would bring into a single fund nearly $8 billion, approximately the same amount currently expended by the Federal Government each year for all kinds of transportation. But the critically important difference would be that NTTF money could be spent to implement a balanced countrywide system developed from plans approved at the state and local levels. This means that if a city decided that it did not want an eight-lane highway tearing through residential areas, it could plan for mass transit instead and get adequate Federal funds with which to do the job.

The single trust fund would mean that cities and states could make rational decisions about building—or not building—highways as part of an overall solution to their transportation problems. They would no longer be victimized by a Federal financing arrangement that pays for more highways—and nothing else.

This NTTF legislation also would require that a single agency be formed at the state level. To obtain financing from the NTTF, that agency would have to develop comprehensive transportation blueprints that in turn would incorporate the specific travel and transit plans of each city with over 50,000 inhabitants.

The bill seeks to encourage cooperation among the states as well, so I have urged that the final form of this legislation enable regions to prepare plans for unified transportation programs in those geographical areas in which each city is too small to constitute a planning unit and yet the state is too large to function effectively as one.

I also feel that it is important to allocate this money in terms of people instead of in terms of things. Too often the present FHTF allots financing to a state on the basis of how many miles of highway it contains rather than on the basis of how many peo-

ple live in it. We should start out by recognizing that the true function of transportation is to serve human beings—to move them and their goods to and from places they need to go in ways that are safe, swift and healthful.

This proposed legislation, by breaking up the pro-automobile, pro-road monopoly now held by the highway lobby and the FHTF, would begin the process of restoring a balance to our national transportation picture.

The possibility of restoring this balance has been open to question in the past. Observers looked at the highway lobby and at the gasoline lobby and at state departments of highways and at the Federal Highway Administration and saw an unyielding conglomerate opposed to any adjustment in our transportation priorities.

But today we have a chance and a challenge to prove those observers wrong. Last year, we came within three votes of defeating the highway lobby on the floor of the Senate. And we were successful in conference in keeping out of a final bill the highway lobby's pet amendment to pump more money into the FHTF. In California, we lost on an attempt to open that state's highway trust fund for other transportation needs; but now in Massachusetts there is a bipartisan campaign to permit portions of gas tax revenues to go into mass transit. And in several other states there is growing recognition that the deathhold of the highway lobby on transportation dollars must be broken. The determination to accomplish that goal is found in the spontaneous uprising of local homeowners and environmental groups to block the extension of highways through their communities.

At the national level there has been a subtle shift as well. Even top officials of certain oil companies such as Mobil and Gulf have inched away from their past refusal to permit any tampering with the sacrosanct funds of the FHTF. They, along with men such as Henry Ford II, are beginning to feel the heat of public demands for a change in national transportation decision-making.

Furthermore, we have the clear unequivocal statements of the National Governors' Conference and of the National League of Cities that FHTF monies must be made available for mass transit needs. These city and state representatives know that as long as $5 billion of the Federal Government's $8-billion annual expenditure remain frozen for highways only, the critical needs of public transportation will continue to go unmet.

They also realize that the stifling and pollution that clouds every American city will never be controlled until there is a shift away from the private automobile toward public transportation systems. And they also are aware that for the very old and the very young, for the poor and the disabled, the first priority of our national transportation effort must be efficient, dependable, safe and comfortable mass transit.

Even the Administration has begun to recognize the need for change. Secretary of Transportation John A. Volpe finally succeeded this past March in overcoming White House opposition to tampering with the FHTF. This may permit a portion of FHTF money to be made available for urban mass transit if the Administration puts its weight behind the new initiative.

But the nation cannot wait. The time to establish the NTTF and the time to readjust our transportation priorities is not two or three or five years hence; the time is now.

NOT ONLY IN AMERICA

If it's any consolation, city dwellers abroad are feeling—and sometimes coming to grips with—the same kinds of transportation problems that afflict their American counterparts. Here are some striking examples:

Edinburgh is taking steps to completely prohibit auto traffic in some areas, limiting transportation in them to buses.

London is being forced to absorb continuing increases in daily auto traffic. The number of cars entering London per day rose from 58,000 in 1960 to 73,000 in 1970, while the number of people entering the city by car dropped from 120,000 to 112,000. As of early 1972, the London local government was reported to have more than 50 plans under study for relieving congestion—many of which would restrict automobile use in congested commercial areas and, therefore, would be opposed by the city's businessmen.

Rome has created and is expanding vehicle-free "preserves" in the downtown area. Coupled with this program to rid the center city of cars (a move also being pushed in Copenhagen and Goteborg, Sweden), the Eternal City is experimenting with the removal of all transit fares during peak hours as a means of inducing more people to use bus and streetcar lines. The carrot-and-stick approach of freeing mass transit services of toll boxes while concurrently banning cars is one that has great attraction to city planners—but not to highway engineers.

Stockholm, in one of the most far-reaching moves taken by any large municipality so far to keep automobiles out of the heart of the city, has made available to its citizens a low-cost, no-limit permit for using mass transportation services anywhere within metropolitan limits. As a supplement to an already restrictive parking and street-use policy for cars, the plan is intended to eventually eliminate all but a handful of autos from the city's center.

Tokyo, beleaguered in the past few years by an onslaught of private autos that caught the city totally unprepared, has experimented with selectively banning cars from streets in its five major entertainment areas and closing some downtown streets during lunch hours. Were it not for a well-developed rail and subway mass transit system, its auto pollution and congestion ailments would be impossible instead of just intolerable.

Toronto, fed up with the afflictions of the auto, halted the construction of a planned six-lane, $230-million commuter expressway that was slated to destroy about 700 homes in its path. The local government took the action even though the project was already partially built.

THE FIGHT FOR A TRANSPORTATION SYSTEM THAT WORKS

(By Theodore W. Kheel)

At one time or another everyone of us has felt annoyed by something his government has done or failed to do. But beyond complaining, we rarely know what else to do about it. Our civic teachers tell us that the cure for bad government is the ballot box. If you do not like the incumbent, vote against him at the next election. But the answer is not quite that simple. Often the choice is not clear, especially when our frustration concerns a particular subject.

Take the matter of transportation, a subject that has disturbed me for many years. Back in 1955, I first spoke out against the imbalance we in this country were creating by favoring the automobile over the subway, the commuter railroad and the bus. Since that time I have been trying to do as much as possible to establish an equitable balance between highway automobile traffic and mass transit. I think I can take some credit for the doubling of the bridge and tunnel tolls in the New York City area by the Triborough Bridge and Tunnel Authority and the use of the surplus funds of that agency to subsidize mass transit. I believe I have also helped reverse the notion prevalent in the 1950's actually a throwback to the 19th century, that the New York City subway system, the most efficient way of getting people about the large metropolis should be self-supporting. To hold to that obsolete idea means, of course, that the fare has to go up whenever expenses exceed revenues. Our experience with the self-sustaining fare since 1949 when it was a nickel shows clearly that people switch from mass to automobile transportation in large numbers when the fare goes up. The result is to clog the streets with traffic and pollute the air with carbon monoxide. The automobile is the least efficient way of getting people to their jobs or the shopping centers. While the car driver is actually not being paid, he is providing his labor usually to carry just one passenger. In comparison, buses and trains transport millions of people—with a work force that is comparatively tiny.

My concern with our continuing urge towards self-destruction through the automobile led me last fall to oppose the $2.5-billion transportation bond issue in New York State. I was appalled to discover at that time that Governor Nelson A. Rockefeller had overspent by some $300 million for highway construction during a period when the state was short of funds for such vital needs as education, crime control, drug abuse and the like. Not only that, but he was arguing that the voters should allow him to borrow $1,150,000,000 for highways so that he could repay the $300 million to avoid tax increases. But this would still have meant spending an additional $850 million for more highways even though there was not enough money around for essentials. I compared this to a man applying for a loan to buy milk for his children and at the same time asking for an additional $25 for champagne.

The vocal opponents of the bond issue were few and far between and had no money. On the other hand, the bond issue's supporters were, if anything, overfinanced. The proponents included the Governor and Mayor John V. Lindsay, the Democrats and the Republicans, the Liberals and the reformers, the bankers, the brokers, the industrialists and the trade unionists. Nevertheless, the bond issue was beaten. Radio and television were of great help in defeating it. The public was fully informed—which is why it rejected a further proliferation of polluting highways.

I have been conducting a battle on another front in the cause of a balanced and coordinated transportation system, but the results so far have been negative. Nor have I been able to get across to the public the importance of the issue. In fact, I have not even been able to make the courts understand what is involved. I refer, of course, to my right to get the Port of New York Authority, to do the job, it was first mandated to do back in 1921 by the states of New York and New Jersey. It was instructed at that time to develop and coordinate *all forms of transportation* in what the framers of this compact between these two states called the "port district." Such a compact or treaty between states has to be approved by the United States Congress—and it was. The port district is the area within a radius of 25 miles of the Statue of Liberty which, the initiators of the pact said, had become commercially one center or district. Obviously, it was not possible for either New York or New Jersey separately to deal with transportation in a bi-state area. A new form of government was called for and the Port Authority was created as the first special body of its type with jurisdiction beyond the geographical limits of the states that brought it into existence. An authority is a non-elective governmental unit that can make decisions supposedly in the interest of greater efficiency, without voter approval.

But the Port Authority's bureaucracy, relieved of effective review and accountability, found that there was no money in mass transit and abandoned the mandate is was originally given to develop and coordinate *all* forms of transportation. It decided instead to invest its ever-increasing financial resources in facilities that were, as they called them, "self-supporting." In other words, profitable. (This led it into sponsoring the largest office building complex in the world, the World Trade Center, in competition with

private enterprise which has erected more office space in the lower one-third of Manhattan than there exists in practically every other major city in the United States put together. And private enterprise did this without any government subsidies. But the Port Authority gets what amounts to special subsidization because it can borrow money at low rates since the interest it pays is tax exempt. As a result, the U.S. Government loses that amount in taxes. This in essence is a subsidy to an agency for a purpose not designated by Congress. The Port Authority, in effect, decides what Congressional funds should be used for.)

Not only has the agency disregarded mass transit and simultaneously encouraged automobile usage by building bridges and tunnels—including an underdecking for the George Washington Bridge (which was originally intended for a commuter railroad)—but it also induced the legislatures of New York and New Jersey in 1962 to pass laws that make it impossible to require the agency to use any of its money for any railroad purpose whatsoever! Thus the states handcuffed themselves. What's more, the authority claims that New York and New Jersey cannot repeal this self-imposed restriction.

You might wonder how it is possible to prevent the two states from repealing their own laws. The device is an ingenious one thought up by the Port Authority's general solicitor, Daniel Goldberg. It makes use of a famous U.S. Supreme Court decision, the so-called Dartmouth College case. By getting New York and New Jersey to pass laws in the form of covenants or agreements with future holders of Port Authority bonds, these covenants become in effect contracts that, it is claimed, cannot be abrogated by the states that entered into them. Since the agency continuously sells bonds for terms of 35 years (the most recent ones were sold in February 1972), it now claims that New York and New Jersey cannot repeal these covenants until all the bonds are paid off. That means that the earliest possible date for any Port Authority aid to mass transit is 2007 when the last bonds bought up to now can be redeemed. If the agency sells more bonds with later maturity dates, it can put off repeal indefinitely. I believe these covenants are illegal because 1) they amend the original compact without Congressional approval and 2) they improperly delegate the powers of the legislatures of the two states to a non-elective body.

Over the years the Port Authority had been able to avoid its full responsibilities to to mass transit by means of slick public relations and effective lobbying. But as the subway, bus and rail crisis worsened, politicians began to come to the view that the agency should do something for mass transit, although to the present day they still do not thoroughly understand the necessity of having the rich and talent-filled Port Authority coordinate all forms of transportation in the port district. It is the only existing agency that can do this. Without a regional approach through a single agency with firm jurisdiction, the metropolitan area's transportation system is going to continue to become even more unbalanced.

Newspapers and public officials have begun to see a glimmer of light. The New York Times, which had been one of the Port Authority's main supporters, started to talk about its "historic neglect" of mass transit. Governor William T. Cahill of New Jersey campaigned and won against former Governor Robert B. Meyner in 1969 on a platform calling for the Port Authority to do something more for mass transit. Gov. Rockefeller joined the bandwagon and together the two governors put out a statement early in 1971 outlining a variety of projects they wanted the agency to undertake.

The principal project was to construct rail links from Manhattan to Kennedy and Newark airports—with intermediate stops in between—at an estimated cost of some $420 million. Austin J. Tobin, who was the agency's executive director but has since resigned after holding the job for almost 30 years, said in no uncertain terms that it would be unconstitutional for the Port Authority to use any of its funds for these rail links because of the 1962 covenants.

In 1958 he had beaten down a similar effort by Gov. Rockefeller to help mass transit. At that time the Governor proposed that the agency use its funds to buy rail cars and lease them to the commuter railroads. It could have done this at a considerable saving because of the tax-exempt funds it was able to borrow. But Tobin opposed Rockefeller unless New York and New Jersey guaranteed that the agency would be reimbursed by the states for the loss of any of its funds, which led one person to ask, "Who needs the Port Authority?" Nevertheless, New York's Constitution was amended to make the procedure possible. The whole affair taught Rockefeller to be careful in taking on this formidable opponent of mass transit.

In 1971, beyond saying that building rail links would be "unconstitutional," Tobin was noticeably silent about his opposition to the project, reflecting undoubtedly the fact that public opinion was demanding that some Port Authority funds be allocated to mass transit. But his silence did not mean consent.

The governors of New York and New Jersey were apparently advised that they might get around the ban on the use of Port Authority funds for any railroad purpose by redefining the term airport to include the rail links. But the Port Authority countered this strategy in defending a suit that I—and other representatives of people in the port district dependent on mass transit—initiated to have the original covenants between the authority and states declared unconstitutional. The agency openly admitted that the links to the airports were railroads and not extensions of the airports. On this point I agree with the Port Authority. Even if there were signs in the railway cars reading, "Fasten seat belt, no smoking, please," a railroad is still a railroad—and the fact that it leads to an airport, with intermediate stops along the way, cannot change it into an airport.

Our suit to have the restrictions declared unconstitutional was really designed to help the governors carry out their program. It was begun in the Federal Courts in March of 1971—along with a companion suit in New Jersey that has been held in abeyance pending the outcome of the New York suit. You might think that the officials advocating Port Authority help for mass transit would have welcomed this litigation. If successful, it would have enabled the governors to avoid the subterfuge of trying to call a railroad an airport, when obviously this strategy was not going to work. Not only were we unaided in this suit, but practically all public officials have silently stood by while the Port Authority has fought to prevent the courts from deciding whether or not the covenants are unconstitutional. To this end, the agency moved to prevent us from having our case heard. It made four arguments. Firstly, it said we were merely asking for an advisory opinion and not a declaratory judgment. Legally that meant we had no case because there was no real problem. It also said that our claim did not raise a substantial Federal question for two reasons: 1) that we were merely attacking a defense the Port Authority might urge if called upon to help mass transit and 2) that there was under $10,000 involved in the claim we made, the requisite minimum amount necessary for Federal jurisdiction. Lastly, it claimed that under Federal law we had no standing to sue.

This case was argued before District Court Judge Harold R. Tyler in early June of 1971. In late July he handed down a decision saying that it was not necessary for him to pass on the four reasons the Port Authority gave why we should be thrown out of court because in his judgment there was still a *fifth* reason why he had no right to sue. Our contention that the covenants amended the compact and therefore required Congressional approval before becoming effective was, he ruled, incorrect. Congressional approval was not needed, he maintained, because the covenants merely reduced the number of duties the Port Authority was assigned. Congressional approval was necessary only if the agency were given new duties, he reasoned.

We immediately made a motion to reargue, contending that the judge had missed the essential point of our case. It was that the Port Authority was required to coordinate all forms of transportation in the port district. If it could not use any of its funds for mass transit, it was incapable of performing the essential job of coordinating—and that was a fundamental amendment of the compact. How could it stop the imbalance in transportation resulting from the overabundance of automobiles it had so helped to encourage if it could do nothing for mass transit?

The Port Authority opposed our motion to reargue, contending that Judge Tyler was correct—and Judge Tyler agreed that he was correct.

We then took our case to the Second Circuit Court of Appeals, arguing that Judge Tyler failed to understand why the Port Authority was created. This time in its answer to our brief, to our great surprise, the agency abandoned Judge Tyler's argument, contending that he should never have decided the case on the basis on which he did, but rather should have held that we had no right to be in court for the four reasons originally stipulated. We pointed out to the Second Circuit that the Port Authority's revised position meant that the Appeals Court had before it both our claim that Judge Tyler was wrong and the Port Authority's contention that he should not have made the decision he did but should have thrown us out of court for the four reasons he did not pass on. Needless to say, it was far from simple to join issue with the Port Authority in the appellate court.

Two months later, the Court of Appeals handed down a decision saying that Judge Tyler should never have considered the issue he based his decision on. It claimed instead that we were not entitled to test the constitutionality of the covenants because there was not $10,000 involved in our suit. It based its conclusion primarily on an affidavit I had submitted to satisfy this requirement, pointing out that because of the deterioration in mass transportation I was required to use taxis at a personal cost of at least $1,350 a year. Multiplied by the number of years until I would reach the retirement age of 65, the extra cost to me exceeded $10,000. I felt awkward about this petty argument in a suit involving the future of transportation in the port district, but prior decisions of the court indicated that it would think along these lines.

In a unanimous opinion, the court said that the test of jurisdiction is not the damages that the people of the port district suffered because the Port Authority violated its mandate, but whether I personally stand to gain, if the suit were successful, the kind of a transportation system I required for my own needs. The course inferred that this called for building me a new subway and concluded that it would take too long to do this to do me any good. Consequently, the court reasoned, I could not show that would be $10,000 worth of advantage to me in having declared unconstitutional the absolute ban on the Port Authority's use of its funds for mass transportation.

That may be the law but we do not think

it is. The purpose of the $10,000 limitation is to keep minor matters out of the Federal courts—and that makes sense. The issue here is whether the Port Authority, the only agency that can perform a bi-state function, should carry out its original mandate to develop and coordinate transportation in the port district. More immediately, it is whether the Port Authority should build the rail links to airports at a cost of $420 million of its money. It is also a question of whether the agency should follow the example of the Triborough Bridge and Tunnel Authority and double the tolls of the bridges and tunnels it owns and use those funds—an additional $70 million a year—for mass transit. It is also a question of whether the Port Authority should use its vast borrowing capacity—and its huge rental income from the World Trade Center—to obtain the $2.5 billion I estimate it could and should borrow for mass transit.

In a motion to have the court reconsider its decision, we are now arguing that the rail links can be built in time to be of use to me. Regardless of the outcome, the essential question remains: what can a private citizen do—beyond voting "no"—when his government is doing something wrong. I am still trying to find out.

THE HIGHWAY LOBBY—CONGESTION AND POLLUTION

(By Ben Kelley)

Millions of people in New York City jammed into antiquated subways . . . dozens of lanes of Washington, D.C. auto traffic inching along at a time-wasting, air-polluting crawl . . . hundreds of suburban commuter buses bogged along a vehicle-saturated expressway into Chicago: countless man-hours, dollars and pulses of human nervous energy consumed in the process.

A sudden national crisis?

Certainly not. Just a typical weekday morning or evening for these and other cities that are trying—but generally failing—to efficiently move millions of people into and out of downtown employment centers during what we curiously call "rush hour."

An undercurrent of hopelessness is apparent in the reaction of people to the worsening problems of handling peak-hour commuter traffic in major American metropolitan areas. Faced on one hand with deteriorating uncomfortable, undependable rail, bus and subway services that cost too much to use—and on the other with highways glutted with unmoving streams of pollution-producing cars—urbanites understandably have concluded that there may be no achievable way out of the rush-hour transportation mess.

And that's a tragedy, because there *are* ways to effectively extricate big city dwellers from their transportation woes and put them on the road to healthy mobility. They center on, first, severely limiting the access of automobiles to urban areas during hours in which roads are in heavy demand and, second, investing the public funds necessary to substantially improve and expand rail and bus mass transit systems so as to provide commuters and shoppers with attractive alternatives to transportation by car.

They do not, however, include building still more miles of downtown and suburban freeway. That approach, embodied in the Interstate Highway System, has long since proved to be a generator and compounder of some of a large city's worst features: traffic jams, run-down or non-existent public transportation, exhaust-laden air, destroyed neighborhoods—with consequent loss of downtown shoppers and the revenues they produce. More city freeways mean additional, not fewer, city problems because, as a study of a major metropolitan freeway system recently concluded, "On urban commuter expressways, peak-hour traffic congestion will rise to meet maximum capacity."

Yet as it's now framed, Federal policy demands that the overwhelming bulk of urban transportation investment be channeled not into much-needed mass transit improvement and extension, but into ever-lengthening miles of freeway pavement. The mechanism that enforces that policy is the Federal Highway Trust Fund, a special financial account that receives money from highway-related taxes—mainly excise taxes on sales of gasoline, new trucks, tires, truck replacement parts, etc. The money may be spent only for highway construction and maintenance.

This fund was created by Congress in 1956 to finance the IHS. It was supposed to end in 1972, but pro-highway interests have persuaded Congress to extend it to 1977. The FHTF takes in and spends more than $5 billion a year on roads. In contrast, the Federal outlay for mass transit in the fiscal year 1971 was only $400 million.

All in all, including Federal, state and local expenditures, Americans today are laying out some $20 billion a year to construct and take care of their highways and streets. They pay out another $20 billion to buy and maintain the motor vehicles that run on these highways and streets. This means that a total of $40 billion a year of our tax and buying power is devoted strictly to the automotive vehicle and its right-of-way—more money than is expended by the nation on any single item outside of its defense budget.

Unlike other trust such as Social Security and union pension plans, the highway version returns to its contributors not dollars but miles of pavement. Whether it's the best way to finance road building depends on the perspective of the beholder. To those who think that expressway projects are more necessary than mass transit, schools, housing renewal or other competing urban needs, the FHTF approach probably looks good.

But it doesn't look so good to the traffic-strangled urbanite. The clear preference of the 140 million people who live or work in and around big cities is for a drastic shift in public spending priorities *away* from fund-created proliferation of cars and concrete and *toward* needed public transportation improvements.

They are signaling this preference in numerous ways. In a recent public opinion poll—one carried out by the highway lobby itself—more than 65 per cent of residents in cities of a million or more in population thought it would be "a good idea . . . to limit the use of automobiles in downtown areas of cities." More than half of the respondents said they thought that the "effect of highways on the environment and the places they go through" is "unfavorable."

Upwards of 40 lawsuits are currently in progress against Federally-aided expressway projects, the bulk of them involving local-level attacks against construction planned in or around urban areas. And some cities, exasperated beyond endurance by the burdens of highway auto transportation, have tried to limit its future in order to make room for something better.

For example, in 1966 San Francisco, using a unique California law, refused to permit IHS construction within its municipal borders because the community could foresee the glut of cars that the proposed new expressways would bring. The decision cost the city $280 million in FHTF "aid" (it was largely money that San Franciscans themselves had paid into the fund through gasoline taxes, but now would never recover). Then, to underscore its commitment to good transportation, the city undertook construction of a comprehensive mass transit rail system—the Bay Area Rapid Transit—funded almost entirely out of the community's own pocket.

Other cities have moved to ban or at least curtail the operation of automobiles in their downtown sections. Berkeley, Calif., aghast at discovering that 25 per cent of its land area was devoted to the care, storage and operation of automobiles banned cars—and car-attracting street improvements—from many of its neighborhoods in 1968. More recently, Highland Park, Mich.—headquarters for a large auto manufacturer—has sought to cut down on vehicular congestion by forbidding Detroit-to-suburbs through traffic on its main streets during commuter hours.

New York City joined other major cities in resisting the proliferation of highways when its voters rejected a transportation bond issue proposed by Governor Nelson A. Rockefeller last year because it was so heavily slanted in favor of road construction and against urban mass transit improvement. Two other large municipalities have also indicated their pro-mass transit or anti-new highway positions: Atlanta, Ga.—voting only weeks before the turndown by New York of increased highway building—approved a one-cent city sales tax to finance needed rail transit development; Washington, D.C. has two citizen-sparked lawsuits underway to halt construction of Interstate 66 and its link, the Three Sisters Bridge, between Washington and Virginia.

In the face of such compelling evidence of the urban dweller's disenchantment with highways and cars, pro-freeway forces might reasonably be expected to modify their intransigent "not one cent for mass transit" attitude that they adopted at the outset of the Interstate program.

Indeed, a few have. Henry Ford II suggested in an off-the-cuff remark at a press conference early this year that small amounts of FHTF money might usefully be spent on mass transit experimentation. This modest proposal, coming as it did from an auto maker, promoted considerable pleased editorial comment on his "defection . . . to the common sense lobby," as THE NEW YORK TIMES called it.

The Mobil Oil Co. played the renegade earlier. In a 1970 print-media ad that encouraged mass transit proponents at a time when prospects for Federal-aid support seemed even more remote than now, Mobil said, "In weighing priorities, no decision-maker can ignore the increasing congestion on those fine highways of ours, especially in and around the great urban centers. But more and better mass transit could stop traffic jams before they start." Special "earmarked funds" for highways should be abandoned and mass transit should be given "a green light," the heretical statement concluded.

But for every tentative concession by a company such as Mobil Oil or by an automobile manufacturer like Henry Ford—whose company isn't insensitive to the new-product and marketing opportunities that may flow to it from an upturn in mass transit development—innumerable defensive battles are being waged by the hard-core highway-support lobby. Some are carried out openly, others are not. All are directed at stemming public pressures on lawmakers, both Federal and state, to release earmarked FHTF dollars in order to improve and expand urban public transportation facilities.

The New York transportation bond issue controversy involved one such highway-lobby activity. Shortly after the bond proposal had been defeated at the polls in December, 1971, questions began to be asked about the make-up of a faceless group known as "Yes for Transportation, Inc." that had vigorously—and expensively—campaigned on behalf of passage of the road building revenue measure. Although full details about who belongs to this group and what its financial resources are must still be ascertained, preliminary investigation already has disclosed that "Yes" included among its principal supporters a number of banks (Chase Manhattan, for example, gave it at least $10,000) and Mobil Oil contributed generous $45,000. You will recall that Mobil's ad in favor of mass transit had seemed so refreshing a year earlier.

One of those particularly interested in the true character of "Yes" was attorney Theodore Kheel, the NYC mediator and arbitrator of labor disputes, who had led a skimpily-funded but nonetheless successful grass-roots campaign against the transportation bond issue. "This committee ["Yes"] collected countless dollars, probably in the neighborhood of three million," said Kheel. "They used the money principally for television advertisements . . . Rockefeller said that the corporation consisted of companies interested in the future of New York. I said that it was a pity that people interested in the future of New York, if willing to put their money up, should not step forward for identification so they could be complimented. They should, I said, put their mouths where their money is . . ."

In California some months earlier a similar effort by the highway lobby succeeded. There it hid behind the name "Californians Against Street and Road Tax Trap." Its mission was to persuade voters to defeat a referendum issue, Proposition 18, that would have diverted modest amounts of state highway fund money into smog control research and mass transit improvement. Proposition 18 was a shoo-in for approval, according to surveys taken in that conservation-conscious state, a few weeks before the vote. Then the Road Tax Trap movement launched a high-intensity last-minute campaign of television, billboard and print ads insinuating that the measure would increase taxes—an untruth, since there was not one cent of additional taxation called for by Proposition 18. The campaign worked and the measure was narrowly defeated. Subsequent probes revealed that the Road Tax Trap group had raised and spent 15 times more lobbying money than supporters of Proposition 18, with about 75 per cent of it coming from oil companies (Mobil, again, was on the scene) and the remainder from auto clubs and their insurance subsidiaries and from rock, concrete, asphalt, cement, tire and road construction interests.

In less clandestine ways, too, pro-highway forces are fighting to preserve the privileged funding arrangements that support freeway proliferation in and outside of urban areas.

For instance, the American Association of State Highway Officials is just what its name says—a national-level organization of the powerful men who run the country's state highway departments and make the decisions regarding what Interstate extensions—and other roads—should be constructed within any state's borders. When the present FHTF expires in 1977, AASHO wants a follow-up road improvement program that will cost at least as much as, and probably a good deal more than, the current $5-billion-a-year outlay. In that future program AASHO foresees expenditures from the FHTF of $1 billion a year or more just to "finance the relief of traffic congestion" in urban areas—not through the development and maintenance of alternative public transportation systems to induce drivers to keep off the highways, but through additional road construction and "improvement." For AASHO, the answer to highway problems in cities is more highways in cities.

Equally vocal in calling for continued large amounts of money from the FHTF—money to be earmarked for highway building—is the Federal Highway Administration, an arm of the United States Department of Transportation that collects and disburses fund dollars and reviews state project plans for Interstate and other Federally-aided highway programs. Francis Turner, the highway administration's chief, told U.S. NEWS AND WORLD REPORT in January that "within the city, three quarters of all traffic uses 15 per cent of the streets. These need to be overhauled." The magazine went on to report that, in the view of Federal highway officials, "Total highways costs between the late 1970s and 1990 would run around $320 billion, with the Federal Trust Fund paying $172 billion of that amount." Total Federal-state-local road spending now amounts to about $20 billion a year.

But the expectations of AASHO and the Federal Highway Administration are restrained compared to those of the so-called "Highway Users Federation for Safety and Mobility." HUFSAM is an amalgam of pro-highway construction state organizations, auto and road building companies, oil refiners and other industrial interests whose business futures are tied up with road and highway expansion and operation. According to HUFSAM's transportation development manager, James O. Granum, the country should spend "about $40 billion a year" over the next 20 years for highway needs, half of it in metropolitan areas. HUFSAM rejects the idea that even a penny of FHTF money should be used to improve urban mass transportation. This is indeed ironic because it was HUFSAM itself that sponsored that public opinion poll we referred to earlier—the one in which city dwellers so roundly condemned the impact of freeways on their environment and so strongly called for the banning of cars in the downtown areas of large urban centers.

So intent is HUFSAM on combating public demands for use of trust fund money to assist urban mass transportation that it has launched a "truth squad" campaign to refute antitrust "myths." The effort entails HUFSAM staff and members delivering canned pro-road development speeches to whomever will listen. Meanwhile, the Federal Highway Administration has for some time been carrying out its own program to offset highway criticism; this one involved handing out to newspapermen and others "resource" material describing cases in which highways have contributed to environmental improvement. Sample item: ". . . highway planning and building brought a back-to-nature bonus to a tribe of South Dakota Indians—a new lake where they can enjoy fishing, swimming and canoeing." A careful reading of the full report from which this item is excerpted discloses that members of the tribe, located near Parmelee, S.D., made a pond by building a dam along a state highway embankment—defraying the expense, it turns out, not with funds allocated to road building but with their own money and a supplemental grant from the Bureau of Indian Affairs.

Then there is TRIP—The Road Improvement Program—formed last year by the American Road Builders Association as an independent propaganda agency. TRIP runs paid radio ads praising highway construction and urging preservation of the FHTF. It spent $250,000 in late 1971 to that end and hopes to have raised and spent $1 million by the end of this year for such advertising.

The road builders, along with other highway lobby groups, make much of what is known as the "diversion" argument in their resistance to opening up the FHTF for mass transit projects. The argument goes like this: since FHTF money comes strictly from highway-use taxes, it should go strictly to highway extension and improvement and not be "diverted" to other transportation needs. The corollary of that argument is, of course, that non-highway taxes shouldn't be used for highway building—but of course they are.

The sincerity of those who put forth the "diversion" argument came into question late in 1971 when highway lobbyists tried to pull off an interesting legislative ploy. They spotted a provision in the Nixon Administration's tax bill that would have repealed some $350 million in small-truck excise taxes—money that traditionally goes into the FHTF. Desperate at the thought of losing even so relatively small an amount of inflow to the $5-billion-a-year fund, they urged, through an amendment introduced by Senate Public Works Committee chairman Jennings Randolph, West Virginia Democrat, that $350 million in alcohol taxes be "diverted" from the general treasury into the FHTF to make up the loss.

"The highway lobby and their political allies have become drunk with power," THE NEW YORK TIMES editorialized on November 13. "Only they could have dreamed of characterizing a tax on alcohol as a 'highway user tax.' It is time for the Senate to sober them up."

But the Senate did not sober them up, despite a letter from the White House opposing the alcohol tax diversion and a valiant floor fight against it led by Republican Senators Charles Percy of Illinois and Lowell P. Weicker Jr. of Connecticut. By a narrow margin it voted on November 16 to go along with the highway lobby's wishes.

Belatedly but nevertheless vigorously, forces on the other side of the argument now swung into operation. Led by the Highway Action Coalition, a team of urban and environmental groups began counter-lobbying in preparation for a scheduled House-Senate conference on the bill. In mid-December the legislation emerged from the conference minus the provision diverting alcohol taxes to highway construction.

HAC and its allies were understandably jubilant. The conference veto demonstrated "a growing disenchantment on Capitol Hill with the highway program and with the whole direction of transportation priorities", said HAC co-director John Kramer.

Not so, retorted Senator Randolph in a declaration made through his office after the vote: ". . . the loss of revenues to the trust fund should not be interpreted as a victory for those who oppose the fund or want to use its resources for other purposes." And the statement warned that because of the defeat, Randolph now plans to work hard for a pet objective of the highway lobby—one that is particularly disturbing to both environmentalists and city dwellers—extension of FHTF's life even beyond the new liberal 1977 cutoff date that Congress granted it only two years ago.

Extension of the FHTF means, of course, extension of the IHS construction program, which consumes four out of every five dollars of the fund's inflow. It becomes crucial to ask whether America's cities would be better served by continuing the IHS program or rechanneling that money into mass transit improvements.

A look at the Interstate's evolution helps provide an answer. As the Eisenhower Administration and Congress originally conceived it, the IHS was to be a 37,600-mile network of quality superhighways built largely over existing rights-of-way, to cost less than $30 billion and to be completed no later than 1972. But that was 1956. Partly because of genuine need and partly because of highway lobby maneuvering, the Interstate over the years has been transformed into a 42,500-mile system—with 85 per cent of those miles being built over new urban and rural rights-of-way. Its ultimate cost will exceed $70 billion.

The Interstate has been rightly called one of the nation's greatest engineering feats. Whether it has also been of genuine service to urban transportation is another matter, considering that:

Because its construction uses 80 per cent of all Federal funds available for roadbuilding, it has drained needed improvement resources away from the 3.6 million miles of American highways and streets that are not a part of the high-speed system.

Interstate expansion into and near cities, where many of us work or live, had added to rather than ameliorated urban transport congestion. The new miles of road have produced even more miles of stalled autos at peak hours—usually commuter cars containing only one or two passengers. And while

dollars have flowed into urban IHS projects, they have been denied to crucially needed improvements in bus, subway and other means of transporting very large numbers of people to, from and about large cities, which in turn would relieve traffic congestion on metropolitan highways and roads.

Ironically, those who can least afford the personal convenience of owning a new car and driving it every day over new urban expressways are those most hurt by IHS construction. The poor need decent and dependable public transportation systems to get to jobs and schools and stores. As the IHS expansion blatantly ignores this need, it also imposes an additional financial burden on the underprivileged, because it is through poorer neighborhoods that the massive construction projects usually are routed. A Government-conducted survey showed that of some 50,000 residents uprooted by Federally-aided road building projects during a typical 18-month period, 17,820 lived in residences valued below $6,000 or paid monthly rentals of $60 or less and 22,466 were in homes valued between $6,000 and $15,000 or paid monthly rentals of between $61 and $110. The remainder of those surveyed owned more expensive houses or were charged higher rents.

At a Congressional hearing in 1969, Federal highway administrator Turner played down the impact of proposed IHS projects on urban dwellers. Concerned because he thought that Turner was giving unjustified short shrift to a huge problem. Clarence Mitchell, head of the National Association for the Advancement of Colored People's Washington office, asked the administrator to divulge "the number of persons who are affected" by the projects—"I feel certain that such identification will show that many of the people affected are poor and members of minority groups."

But the requested data, which probably would have given urban planners and Federal budget makers important new insights into the impact of freeway construction on disadvantaged people in large cities, simply were never produced. And yet there are many examples of Interstate's non-concern, in past construction and prospective road building plans, with the well-being of urban poor people and members of minority groups. Here are three:

Interstate 395 is an eight-tenths-of-a-mile expressway that saves commuters 15 minutes per trip between Miami, Fla. and its outlying Cutler Ridge suburb. In order to effect this small savings in commuting time a formerly cohesive black neighborhood, whose median annual income is $2,500, was sliced in two. The expressway is a 50-yard-wide swath through the heart of this neighborhood, marking the destruction of acres of low-income housing. Not only do some of the residents now suffer from the din and pollution of a freeway only 200 feet from their windows, but also all of the inhabitants are separated from their nearest shopping and commercial center by the high-speed traffic on the superhighway.

"For the residents of the area that was cut apart by the new expressway," according to a National Urban Coalition analysis, "the closest access to it is nearly a mile away at downtown Biscayne Boulevard. Ironically, those who had given the most for the expressway benefited from it the least."

Chicago Crosstown, an as yet unnumbered Interstate route in Illinois for which ground is to be broken sometime this year, will cut a 22-mile-long stretch through predominantly poor neighborhoods. Some 200,000 citizens have banded together to oppose the $1-billion project, but city and state officials seem intent on going forward with it anyway.

Mass transit might be one alternative to the Crosstown highway, but if so it will remain an untried one. For as the U.S. Department of Transportation's regional representative in Chicago warned at a meeting of community spokesmen in October 1971, local government officials are "presently powerless to decree or initiate changes in highway plans" even though community representatives are "not without conviction as to the desirability of, or preferential route for, a proposed new highway." In other words, the Crosstown route will be completed exactly according to state and Federal highway planners' specifications unless the courts intervene to stop it.

Interstate 40 in Nashville, Tenn. is a monument to inhumane highway planning. The original route line was "approved" at a clandestine "public hearing" in 1957, ironically, the residents of black North Nashville, the area through which the expressway now passes, were not told about the hearing. The superhighway's course and design served to seal off the black community's 100 square blocks from the rest of the city. Furthermore, the building of the expressway required destroying or damaging 234 Negro-owned businesses, 650 houses, 27 apartment buildings and several churches.

It was not until 1967 that the local black leadership was told of the full implications of the I–40 route plan, and by that time bulldozers already had started clearing less-settled areas along the line. Hastily organizing, the community fought the project before the state highway department, the U.S. Department of Transportation and the U.S. Supreme Court. But aside from getting some relatively minor design modifications, the people whose lives were wrecked by the expressway were unable to gain satisfaction.

To continue the FHTF and the IHS will be to guarantee the kinds of freeway construction abuses whose scars are worn by Nashville, Miami and many other large and small cities. Moreover, it will be to perpetuate a scheme of national taxing and spending that provides an enormous amount of money for creating new highways in urban areas—which in turn increase auto pollution and congestion—but only a pittance for such critically-needed alternatives as comprehensive rail mass transit, greatly improved and accelerated public bus service and, for selected experimental areas, free bus, subway and train transit.

It will be up to Congress this year or next to decide whether the FHTF has outlived its usefulness and become a retarding rather than invigorating force in solving the nation's critical transportation and social problems. Urging that the FHTF and the IHS construction programs be continued and extended will be the still powerful, still single-minded highway lobby. At the same time the emerging coalition of environmental, urban protection and public health groups will be pressing, to one degree or another, for reform of urban transportation spending policies at the Federal level. The future of urban transportation and, quite likely, the future of America's big cities depend on which voices our legislators listen to, on how clearly the voters make their wishes known.

RESOLUTION ADOPTED AT UAW CONVENTION, APRIL 1972—TRANSPORTATION SYSTEM

A dramatic re-ordering of U.S. transportation priorities is promptly needed. Federal transportation programs have been primarily directed toward building the interstate highway system. Five billion dollars a year is available for highways through the Highway Trust Fund, but in 1971 only $80 million in Federal funds were available for mass transit. The Federal share of interstate highway construction projects is never more than 66⅔%. The cost of the interstate system is now projected to total $76 billion.

Billions more are spent or being planned for airports, merchant marine subsidies and rail subsidies. But little is being done for the millions of people who need a fast, convenient, safe mode of transportation to work. Present law provides $3 billion during the next five years for mass transportation. But capital needs alone during the 1970's have been estimated between $28 and $34 billion. Transit patronage has dropped to one-quarter of what it was 25 years ago, and bus companies are failing while fares are skyrocketing.

The trend must be reversed. The automobile has a major role in a balanced transportation system, but reliance upon the automobile as the only major source of transportation is unwise at best, disaster at worst.

Mass transportation systems will enable inner city residents to reach their jobs more easily and provide greater mobility for young people and senior and handicapped citizens. Moreover, commuters, shoppers and tourists need a mass transportation system.

Federal funds must be allocated to developing mass transportation systems in amounts that will significantly improve the quality, variety and scope of transit services.

Such systems will provide cost savings. Their expansion will help to preserve the environment by reducing air pollution, conserving natural resources and increasing transportation safety. They will add to the general improvement in the quality of urban life. Americans will have more time for recreation and cultural activities as they spend less time commuting—and mass transportation can help them to reach such activities. Not the least of the benefits will be the creation of thousands upon thousands of jobs in the production of mass transportation vehicles and in the operation of mass transportation systems after they are built.

But city governments are up against the wall financially. With declining revenues and increasing expenditures, they cannot raise the huge amounts of money needed to plan and construct modern public transport systems.

Resolved: The UAW supports a national policy that will put mass transportation systems on an equal footing with other forms of transportation, with the federal government providing 90 percent of funding and 10 percent raised locally, as now provided for freeways.

The UAW further supports improvements in the urban transportation planning process that will assure timely and effective citizen participation in the decision-making process, improve the quality of the environment and implement the continuing, comprehensive, coordinated planning process authorized by the Federal Highway Act of 1972.

The UAW urges that the Highway Trust Fund be renamed the Transportation Trust Fund, with a realistic amount of its revenues earmarked for planning, construction and operation of a total mass transportation system.

The automobile industry has expressed itself in favor of the development of mass transportation system. It must do more than pay lip service to this concept. Therefore, the UAW urges the automobile industry to take the lead in supporting, developing and producing for mass transportation systems. Auto industry experience, plant investment and know-how should be utilized toward this end just as the automobile industry converted to war production in the 1940's. Such an effort would fill an important need for the nation and create tens of thousands of jobs required to keep the economy viable.

[From the Wall Street Journal, Jan. 16, 1973]

CHICAGO AGENCY PLANS TO SHARPLY CURTAIL MASS-TRANSIT SERVICE

CHICAGO.—The financially troubled Chicago Transit Authority, operators of Chicago's bus, subway and "L" train systems, proposed massive service cutbacks to help eliminate expected operating deficits.

Last week, the CTA announced some service cutbacks and an increase in the basic fare to 50 cents from 45 cents, making Chicago's mass-transit fare among the highest in the nation.

The CTA said the new cutbacks, designed to save an estimated $12 million annually, would close 23 rapid-transit stations, eliminate express service from Evanston to downtown Chicago, abolish 18 bus lines and cut night and weekend service on some "L" lines. The cutbacks will eliminate about 600 jobs, the CTA said.

The CTA, which has been seeking permanent operating subsidies from local, county, state and federal agencies, has said that adequate subsidies would allow rescinding of the fare increase and at least some of the cutbacks.

The bus routes being eliminated carry about 56,000 riders daily. About 6,500 daily riders use the express service from Evanston, will be forced to ride slower local trains. In addition, the "L" train service being eliminated on Sunday carriers about 2,000 persons.

[From the New York Times, Dec. 19, 1972]

JERSEY CENTRAL COMMUTER RUNS TO END UNLESS STATE PAYS MORE

(By Joseph F. Sullivan)

NEWARK, December 18.—Federal Judge Anthony T. Augelli gave the Jersey Central Railroad permission today to eliminate passenger service after Jan. 21 on its main line and Jersey Shore service. The lines carry 15,000 riders daily.

Judge Augelli said he reached his decision "somewhat reluctantly" after agreeing with the bankrupt railroad's contention that it could not continue to absorb losses of $500,000 a month on its commuter runs. The judge said the losses "are eating into the very heart of this unfortunate carrier."

The shutdown could be averted if the state and the rail line agree on a new subsidy contract considerably higher than the $5.1-million subsidy for the current year. Deputy Attorney General Robert Bossolt, who represented the State Transportation Department at today's hearing, said he was "not optimistic" about the prospects of increasing the subsidy in line with the railroad's request.

State Transportation Commissioner John C. Kohl issued a brief statement in Trenton in which he promised commuters "will not be left high and dry."

"There are several options open which are under consideration," Mr. Kohl said. "Among these is an appeal to a higher court and until this is decided we are holding all other action in abeyance."

Mr. Bossolt revealed in court that one option being considered is the running of 200 buses along the route of the Jersey Central main line from Hampton to Newark.

A spokesman for the department said the ruling appears to be designed to pressure New Jersey into abandoning its "avoidable cost" formula in computing rail subsidies and into adopting a "full service" contract similar to that recently started in New York between the state and the bankrupt Penn Central Railroad.

Robert D. Timpany, the court-appointed trustee for the Jersey Central, asked for a full service contract in today's court action, but Judge Augelli did not mention it in his order. Mr. Timpany said the state subsidy must be increased by $10-million annually if the company was to avoid further losses.

Under the avoidance-cost system, the state reimburse the carrier for costs it could avoid if it dropped its commuter service. The full-cost formula includes station and right-of-way maintenance as well as other costs of operation in the computation and it has been rejected by the state in the past.

Two weeks ago Judge Augelli denied a move by the Manufacturers Hanover Trust Company, the trustee for the bond holders of the Jersey Central, to liquidate the rail carrier before it went deeper in the red.

At that time, Mr. Timpany opposed the application and contended the carrier could realize an $800,000 profit from its freight operation in the coming year if it were allowed to make certain changes in its operation. The changes envisioned include the termination of all present commuter service in the state.

The loss of main line service would affect 7,000 riders and 1,000 others who use the Cranford-to-Bayonne shuttle. The elimination of the service between Newark and the Jersey Shore resorts of Monmouth and northern ocean counties would inconvenience 7,000 others who would be forced onto Penn Central trains or buses.

The shore service is operated by the two rail carriers through a jointly owned holding company, the New York and Long Branch Railroad, which owns the tracks and stations but no rolling stock. At present, the Penn Central provides "slightly more" than 50 per cent of the Shore service, according to a Jersey Central spokesman.

The Jersey Central, which has received more than $40-million in state subsidies since 1961, has been bankrupt since 1967.

The threatened shutdown of the important commuter lines comes at a time when Governor Cahill is attempting to increase the rail mass transportation system in Northern New Jersey through a proposed extension of the Port Authority Trans-Hudson system Penn Station in Newark out to Cranford and eventually to Plainfield.

Despite the hardline adopted thus far by the Transportation Department, the Governor's stepped-up emphasis on mass transit and next year's gubernatorial and legislative elections are expected to provide the pressure needed to force the administration to reexamine its rail subsidy program and possibly find new revenue to keep the rail line going when the Legislature reconvenes Jan. 9.

[From the New York Times, Nov. 25, 1972]

FUND SHORTAGE FORESEEN BY PORT AUTHORITY OFFICIAL

(By Frank J. Prial)

NEWARK, November 24.—The acting director of the Port of New York and New Jersey Authority said yesterday that the huge agency might soon be in serious need of capital funds and was apparently unable to raise any through the sale of its bonds at favorable rates.

The acting director, Patrick J. Falvey, asserted at a meeting of New Jersey legislators here that the financial community's "uncertainty" over the Port Authority's future role in mass transit was responsible for the agency's financial situation.

The Port Authority is urging the New Jersey Legislature to pass a bill next week that would guarantee to present holders of Port Authority obligations that their investments were safe. The bill and a similar one to be presented in Albany in January were announced last week as part of a deal in which the Port Authority will undertake some $650 million in commuter rail improvements in the metropolitan area.

It was announced at the time that the bills were designed to eliminate a 1962 covenant prohibiting Port Authority bonds from "future Port Authority bond issues" from being used for mass-transit purposes.

The New York State Legislature passed a law last spring eliminating the covenant from all Port Authority bonds, but it did not take effect because New Jersey did not enact a similar measure.

The proposed new laws would restore the covenant in New York so far as it applied to all existing Port Authority bonds. The covenant was passed by both states in 1962 to guarantee bondholders that the bistate agency would never get involved in any deficit passenger-rail operations other than PATH, the commuter service the two states required the agency to take over and rehabilitate.

Normally, the Port Authority goes to the bond market with a new issue twice a year. Thus far in 1972; the agency has sold only one issue—$150-million in tax-exempt bonds. That was in February, before the New York State Legislature passes its law on the bonds.

Richard Sullivan, a spokesman for the Port Authority, confirmed that "serious consideration has been given to the New York legislation, which seems to completely abrogate the 1962 covenant. This is of serious concern to the money market and affects the normal interest rates," Mr. Sullivan said.

Mr. Falvey told the New Jersey legislators that "we have a great need to issue bonds very, very soon so we can get going on our other projects." He indicated that this would be extremely difficult if the legislators did not pass the bill before them. Mr. Sullivan said later that the Port Authority had "a continuing program and we've got to maintain our schedule." If bonds cannot be sold soon, he said, "we face increased borrowing requirements next year."

Theodore W. Kheel, a long-time critic of the Port Authority's role, said yesterday that an official of Standard and Poors, the bond-rating organization, had told him in a letter last July that the two goals—Port Authority involvement in mass transit and safe Port Authority bonds—were incompatible, and that the question of how they could both be met would have to be resolved "before the next port bond sale."

"What they are doing," Mr. Kheel said yesterday, "is trying to correct what they think is Rockefeller's mistake. They are returning the covenant to New York law.

Few of the approximately 25 New Jersey legislators raised any question about financial issues at the meeting at the Port Authority's administration building at Port Newark. The Democrats present, led by Senate Minority Leader Edward J. Crabiel, said they would call for a public hearing on the mass-transit plan before debating the legislation.

If the two bills changing the 1962 covenant are passed, work on the mass-transit plan could begin next year, the Port Authority says.

[From the Washington Post, Nov. 23, 1972]

BIG CITY TRANSIT WOES INCREASING

(By Donald M. Rothberg)

NEW YORK.—A Penn Central commuter reaches into his bag of daily horror stories and pulls out this one:

"This morning I took the 7:20 train which got to my station at 7:30 and managed to be about 25 minutes late getting to New York. Now, that's not too bad. The other night I was an hour and 10 minutes late getting home."

Or there's the subway system, particularly in a summer rush hour.

When the Lexington Avenue train stops between stations and the temperature is over 100 and your clothing is soaked and the guy in the leather jacket jammed against your right side hasn't bathed in a month and looks a little homicidal besides, then each stalled minute lasts an hour and you have a taste of subway commuting and an idea why all those people who do it twice a working day stare at each other with expressions of resignation, rage, fear, or loathing.

By train, subway, automobile, and ferry 2 million people struggle into Manhattan each weekday morning. More than 90 per cent use public transportation.

No other city approaches that percentage, but transit officials in Chicago, Philadelphia, Atlanta, Boston and other big cities dream of someday coming close to it.

Their hope is to lure commuters out of their automobiles by offering fast, clean, comfortable rapid-transit service. They claim that increased ridership would reduce deficits and perhaps reverse the generally worsening lot of the nation's commuters.

But little in the New York experience justifies these hopes. Its subways and railroads offer mostly erratic, dirty, uncomfort-

able service and show gigantic deficits that give little sign of coming under control.

And many of New York's problems are not unique.

A close look turns up problems found in smaller cities: fare increases followed by declining ridership; equipment obsolete and in disrepair; a spiraling deficit; planning influenced more by political than social needs.

So what cautionary examples has New York for cities seeking to expand their rapid-transit systems? First, there's ridership.

Twenty-five years ago, the New York subway system carried nearly 7 million riders a day compared with 4.5 million today.

"We used to have guards pushing people onto trains," said a Transit Authority official.

That peak year, 1947, the fare was a nickel. The next year it went to a dime and the ridership decline began. Other factors were involved, but each successive fare boost to the current 35 cents was followed by further declines.

And even with those increases, labor costs run $1.08 for every $1 of farebox revenue.

Then, there's the problem of equipment.

The New York subway system is the world's largest, with 720 miles of track, 476 stations, and 7,000 passenger cars, of which fewer than 1,000 are air conditioned.

The rest of that fleet includes 1,200 40-year-old cars in daily use that the Transit Authority says "lack passenger amenities, are noisy and uncomfortable and are not air conditioned. Breakdown of this equipment has been a major element in subway delays and the costs of maintaining these cars are high. Illumination in the cars, provided by bare, incandescent light bulbs, is poor."

That description was in an announcement of plans to buy 752 new, air-conditioned cars for $210.5 million to replace the oldest of the system's fleet.

Even with that order, by 1975 only 20 per cent of the New York subway cars will be air-conditioned.

New air-conditioned cars cost $273,000 each. City Hall sources described a meeting of the mayor and city finance officials to discuss money for subway cars.

One participant, trying to be funny, said, "I know how we can save money. We don't have to air-condition the cars. Just heat the stations."

According to the story, the mayor was not amused.

There are few American cities where officials aren't having similar meetings in which they scratch for the resources to replace antiquated buses and subway cars.

Philadelphia has drawn up a capital improvement program that would cost $4 billion, but "we simply don't have enough matching funds to get the federal money," said James McConnon, chairman of the agency that runs that city's transit system.

In Massachusetts, the transit system serving the Boston area taps real-estate-tax revenues of communities its serves. But they are growing increasingly balky.

[From the New York Times, Nov. 12, 1972]

OFFICIALS URGE BETTER TRANSIT SYSTEMS FOR TODAY, NOT THE FUTURE

(By Frank J. Prial)

A panel of city and Federal officials agreed here this week that advanced transportation concepts such as people-movers and personal rapid-transit system can have little or no impact on the city's immediate transportation needs.

Their conclusion was not without some irony. The panel discussion took place at the Owens-Corning Fiberglass Center, 717 Fifth Avenue, where an exhibition of advanced transportation concepts is on display.

"Everything here is Buck Rogers," said Jaquelin T. Robertson, the director of the Office of Midtown Planning and Development. "It's not going to change our lives for many years to come."

"We are talking about advanced systems," said Jerome Kretchmer, the city's Environmental Protection Administrator, "and the first one I saw when I walked in here was a menace."

DEEMPHASIS URGED

Mr. Kretchmer was referring to an electric-powered car prototype that has a long, pointed glass-fiber snout. Mr. Kretchmer said the car could be dangerous on city streets. "No one," he continued, "is really working to provide a transportation system that will work in our environment."

Mr. Robertson, whose principal current project is the proposed Madison Avenue mall, called for a de-emphasis on "money and technology" because they cannot provide the short-term solutions most cities need.

"We will have to use existing technology and existing rights of way for the next 10 years, maybe 15," he said. Mr. Robertson called for the development of "maxi-cabs and mini-buses, limited-size trucks, and a re-apportionment of street use, banning autos from many central-city areas.

"The automobile," he said, "is a hopelessly inefficient carrier of bodies" in the urban environment.

"FOR 10 YEARS FROM NOW"

Mr. Robertson urged that existing funds for transportation development be used to foster "pedestrianism and jitneys in the central city, and trains for intercity travel." "If there is any money left," he added, "it can be spent diddling around with far-out things."

William Allison, a deputy administrator of the Federal Department of Transportation's Urban Mass Transit Administration, which pays for development of most of the "far-out things," conceded that people-movers were a long-range concept. "The people-mover is for 10 years from now," he said, "but we must have long-range planning."

He said his administration was deeply committed to short-term planning. He cited projects that could produce a totally new urban bus by 1974 and two projects being developed by the Metropolitan Transportation Administration here. They are the gas-turbine commuter car being developed for the Long Island Rail Road and a stored-energy braking system for the New York City subways.

Representative Edward I. Koch said a bill that he had sponsored was designed to open the Highway Trust Fund to mass-Transportation uses. It is expected to reach the House floor in January. He said he expected "the hardest fight imaginable," because the fund, which contains about $5-billion, is jealously guarded by powerful highway interests.

Robert N. Rickles, executive director of the Institute for Public Transportation, which was a sponsor of the panel discussion, urged all groups concerned about mass transportation to bring their cases to the public.

"Transportation," he said, "is the only environmental issue on which we can excite the majority." "It's not a white, middle-class, elitist issue," he said. "It's a political issue and the middle class and the poor must join together to demand what they are entitled to."

"We've got to convince people that transportation is important and that it can get better," he said.

[From the Journal of Commerce, Oct. 27, 1972]

NEED FOR MASS TRANSPORT, HOUSING LIKELY TO RISE AS POPULATION GROWS

(By Robert M. Lewin)

CHICAGO, October 26.—The need for mass transportation and mass housing will increase as the nation's population spurts to 230–233 million by 1980 and to 255–260 million by 1990, the National Council of Physical Distribution Management was told here recently.

Nevertheless, Dr. William Lazer, a professor at Michigan State University's Graduate School of Business Administration, who made the prediction, also said that he believed further congestion in cities would develop.

He added there will be a "continuing growth of urban areas."

"No large extension is anticipated in the creation of new cities which will attract large populations," Dr. Lazer continued.

CHANGES IN LIFE STYLES

"The reduction of a rural emphasis will result in significant changes in life styles.

"Urban concentrations will heighten the desire for privacy and the 'need to get away from it all.'" Dr. Lazer told the council that the change in life styles will "reflect the tastes and products of the world."

"Broader exposure of consumers will result in even more favorable images of international products," he went on.

"The world will be brought into American homes. The results will be both an uplifting of tastes—and a broader acceptance of different life styles.

"Consumers will be exposed to an increasing number of product alternatives. Choices will become more difficult."

Dr. Lazer warned that "there will be a greater awareness by society of ecological-environmental factors and issues, and increasing concern with the quality of life."

He forecasts that sewage, power, air, water and noise pollution will be scrutinized more carefully, adding:

GOVERNMENT ACTION NEEDED

"Government action will be required and instituted to gain adherence to the desired ecological standards by business."

Dr. Lazer stressed that consumers would place more emphasis on humanism, individualism and self-development—with more of their dollars being spent on services. He forecast a gross national product of about $1.5 trillion (the value of goods and services produced in a year) by 1980, projecting an annual growth rate of more than 4.5 per cent in real income in each of the 10 years between 1970–80.

The 1972 gross national product has been estimated at $1.15 trillion.

"Increasing real income will lead to an increase in both the quantities and qualities of products consumed," said Dr. Lazer.

"People will purchase what they always wanted but could not afford. The home will remain the major focus of the American life style.

"The role of wives and other family members, however, will change.

"Convenience and product-use values will be significant. Leisure, recreation, travel, cosmopolitanism, urbanism, and the desire to 'return to nature' will all have an impact."

Dr. Lazer said that the government, through income maintenance programs, will have a major impact on life styles. "Services, warranties, product environment, interfaces, price-cost relationships and social responsibilities will be re-evaluated by business."

Dr. Lazer said he believed that prices probably would increase throughout the 1970s and although, in his opinion, inflation will not "gallop," it will "continue."

"Pressures will exist for increasing wages and other worker benefits," he also said.

"The ecological problems, social programs, higher interest rates and increasing levels of taxation will be reflected in higher prices. Consumers will have an orientation of expecting to pay higher prices for products and services.

"Continuing inflation will become the norm."

Dr. Lazer said that management decisions no longer can be justified on the basis of costs and profits alone.

"Attention must be given to social costs, social profits, social product, social audits and social indicators," he noted.

"The marketing manager of the future must be cognizant of these developments and must recognize their importance and impact.

"He must be prepared to factor them into his management equations and into his decisions and strategies."

Mr. WEICKER. Mr. President, I am delighted to join with the distinguished senior Senator from Massachusetts in introducing the "Highways and Related Transportation Systems Improvement Act of 1973."

The thrust of the bill we are introducing is to increase the flexibility and scope of the Highway Trust Fund. It is important to note that this proposal will in no way interfere with that portion of the trust fund allocated for completion of the interstate highway system. State and local governments will, however, be given the choice—and I emphasize the word choice—of spending noninterstate funds to their best advantage where buses, railroads, or subways present a more viable solution to the transportation problem.

In the simplest terms, then, this bill provides that an estimated $3.25 billion, allocated for completion of the interstate system, will not be touched.

The important distinction is the treatment of an estimated $2.75 billion allocated for noninterstate funding. While there will be no requirement that these funds be spent on mass transit, States, and cities will be given an option to spend these funds on rail or bus transit.

A second feature of this proposal is that half the $2.75 billion available for flexible spending will go directly to metropolitan areas, under a so-called passthrough provision. An individual city's share under this passthrough would be based on that city's size in relation to the size of all cities in the State.

Should a number of cities decide to work together in setting up a regional transportation agency, the individual funding shares of all those cities would then go to the regional agency.

The overall intent of these passthrough provisions is to stimulate transportation planning in urban areas at the local level. And, in fact, money becomes available under the passthrough only when a city or agency has a comprehensive transportation plan approved by the Secretary of Transportation and the Governor.

The other half of the $2.75 billion available for flexible spending will go to the State government, to be administered by a single State agency—such as a State Department of Transportation—which is responsible for developing a comprehensive and balanced transportation plan. This plan must be approved by the Governor and the Secretary of the U.S. Department of Transportation.

An additional provision of this bill would charge the Secretary of Transportation to use a portion of his discretionary funds for emergency steps to help meet the air quality standards as set forth in the Clean Air Act of 1970. Funds are also specifically allocated for highway beautification and safety standards.

Finally, this bill provides that the Secretary of Transportation may withdraw his approval for the construction of any controversial Interstate segment, upon the joint request of a Governor and the local government concerned. The funds that would have been spent on such projects shall not be lost by the State, but rather an equal amount of money shall be reallocated to other federally aided transportation projects in the same locality as the wtihdrawn project.

Mr. President, in my judgment this proposal is the most progressive and appropriate plan for applying our Highway Trust Fund to the transportation needs of America. Highways were our first priority when the trust fund was set up in 1956. But the building of highways became a national obsession—and this obsession has caused what can only be described as "the great American motion sickness."

Our transportation system has become an indifferent, inefficient, destructive, and deadly "beast of national burden." It goes where the spirit of speculation moves it—and it is driven by the wheels of vested interest.

In 1906, traffic in downtown New York crept along behind horses at an average speed of 11.5 miles per hour. By 1966, it was creeping along at 8.5 miles per hour, behind the most powerful engines Detroit could mass-produce.

Public transportation systems in our cities are in disrepair and decline—in some cities they are vitrually nonexistent.

In Watts, the site of major riots in the 1960's, the only way to reach the county hospital was by taxi. The roundtrip fare was $10—so when a man or woman felt sick, the bitter question was whether he felt "ten dollars sick."

It is a sad commentary when we come upon a city with the skies black from smoke, with ambulances rushing to help the wounded and planes circling overhead, where men in helmets are digging trenches in the street, and people are pushing and shoving in a desperate attempt to escape—and we would have to ask whether it was a city at war—or the evening rush hour.

Seventy-five percent of our people now live in urban areas, and endless highways often do them more harm than good. The young, the old, the poor, and the disabled are helpless in these cities, because recent innovations in mass transit have been sacrificed on the altar of the two-car family. And now that the grass of the suburbs is giving way to one more highway, even the advantaged are getting nervous—as they see the vertical concrete they left turning horizontal.

Turning to the hard tragedy of our transportation crisis—and now that our concerns with Vietnam have been ended—I must ask, where is an equal concern for the 57,000 casualties on our highways each year? Perhaps this bloodbath would be more newsworthy if the same result were accomplished by driving a bus, jammed with 156 people, into a brick wall—killing them all—once a day. To complete the story, however, we would then have to drive 35 more buses, each packed with 156 more people, into that wall every day—to be maimed and disabled. This is not to mention the $14.3 billion annual cost of such madness.

All I can ask is how, by any form of reasoning, can we support a program to expand this tragedy—in the face of logical alternatives?

When we realize what the transportation issue is, we understand that the fight for balanced transportation is a fight for life.

For too long I have hoped to see a dramatic awakening with respect to the Nation's transportation problems. It has not happened, because it has been a creeping rather than an instantaneous catastrophe.

Mr. President, the senior Senator from Massachusetts and I have offered a bill that is not antihighway in its purpose. Rather, for the first time, transportation decisions could be made by humans living in 1973, not a highway trust fund created in 1956. This bill states that in diversity rather than sameness lies the answer to mobility in the United States.

In 1956, without knowledge of costs, monetary or human, the Congress of the United States created the highway trust fund. And that congressional action has remained basically unchanged for 16 years and eight elections.

An automatic pilot was turned on, and America has overflown its transportation destination many times over.

In creating the highway trust fund, Congress let a concept rather than a Congress shape transportation policies. Concepts are words—Congress is human. Trust fund sounds so proper. It sounds much better than politics. But the fact is that, with the creation of the trust fund, the Congress of the United States turned over its responsibilities in the area of transportation to private interests.

The fact is that the Congress of the United States made a commitment of taxpayers' moneys, not just for one session of the Congress but for what has now been 16 sessions of the Congress—without consultation with or accountability by those taxpayers.

What we are now saying to the Congress is that the highway trust fund is no more sacrosanct than any other Federal project, regardless of what it is called.

If the money or the concept is not doing the job, then change—not hanging on—is the order of the day.

That same national mania for highways that set back the railroads in 1966 could turn to mass transit in 1972 and leave highways a forgotten transportation project. But we need a balanced transportation system, not a multitude of transportation happenings.

Finally, the highway lobby in Washington has fought a vigorous battle to protect "its" fund. Arrogantly they claim to speak for all Americans, and unfortunately most Americans are too lazy to face them down.

Since it has been creeping rather than instantaneous disaster, all of us are willing to accept the traffic jams, the death, the pollution, the environmental desecration. Grumbling as we sit in our car, we find laziness in full command when the

ignition is turned off and the car is in the garage.

But the biggest reason of all for no change in our transportation policies has been the American people themselves. Only recently in the State of Connecticut, transportation was listed in a poll as being an important issue to only 3 percent of Connecticut's voters. Ninety percent felt pollution was an issue; 95 percent felt that the environment was an issue; both are component parts of the transportation crisis, but only 3 percent designated the crisis itself as important.

I think slowly all of Connecticut, as well as the rest of this Nation, is beginning to understand that transportation is not only of concern to the commuter. It is the concern of the suburban dweller, the factory worker, and the storeowner. Just as surely, transportation is no longer simply a Connecticut, New York, or Massachusetts issue, it is an issue for all the new population centers, be they in Georgia, or California, or Texas, or Florida.

This was the background then when the Highway Trust Fund came up for its automatic biennial approval last year. For the first time in its 16-year career, the highway lobby was run over by the Senate of the United States.

Senator KENNEDY and myself on the one hand, Senators COOPER and MUSKIE on the other, tried to amend the highway bill to provide for the use of highway funds for mass transit—mass transit rail, mass transit bus. The Kennedy-Weicker amendment was a slightly broader, more adequately financed proposal and should be the law of the future.

Unfortunately, what was a successful fight in the Senate came to grief in the House.

What this means is that instead of waiting until 1974, transportation policy will be shaped by Congress in 1973.

What is clear is that highways alone, or in overwhelming proportions, are a mobility, environmental, and safety disaster. We have become a nation of automotive lemmings.

I am reminded of the parable of how not to "cook a frog." If you were to boil a pot of water and drop the frog in, his reflexes would cause him to jump out of the pot, thus saving him from being cooked. On the other hand, put him in a pot of cold water, heat it slowly and he would eventually be cooked.

In terms of transportation, we are the frog and we had better jump or——

By Mr. STEVENSON:

S. 684. A bill to amend section 109 of title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II. Referred to the Committee on Veterans Affairs.

Mr. STEVENSON. Mr. President, during World War II, the armed forces of Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Rumania, and Yugoslavia fought valiantly on the Allied side. After the war, there was a change of government in each of those countries, a change which deprived the Eastern European people of the freedom for which they had fought. Consequently Eastern Europeans, by the hundreds of thousands, emigrated to the United States in search of the kind of life they could no longer lead in their own countries.

A great many of them are now American citizens who have enriched our Nation through hard work. The bill I introduce today recognizes the important contribution these brave Americans made to the Allied war effort by providing that they will be eligible for Veterans' Administration medical and hospital benefits on exactly the same basis as war veterans of the U.S. Armed Forces. The bill is limited to persons who have been American citizens for at least 10 years and who participated in armed conflict with an enemy of the United States during World War II while serving in the armed forces of the countries enumerated above. American citizens who fought in Gen. Joseph Haller's Army during World War I are covered on the same terms.

Under existing law, the U.S. Government pays for medical and hospital benefits given to persons who served in the Armed Forces of the Philippines during World War II, even if such persons are not American citizens. We can do no less for Eastern European veterans who are American citizens. There is no reason to treat these first-class Americans as second-class citizens. At the modest cost of approximately $12 million annually, we can do justice to these veterans by providing them with the VA medical and hospital benefits they have earned.

I ask unanimous consent that the text of the bill, which is identical to a bill introduced in the House by Congressman ANNUNZIO, be printed at this point in the RECORD.

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

S. 684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109 of title 38, United States Code, is amended by adding at the end thereof the following:

"(c) (1) Any person who—

"(A) Served—

"(i) during World War I as a member of the military organization commonly known as General Joseph Haller's army; or

"(ii) during World War II as a member of any armed force of the government of Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, or Yugoslavia, and participated while so serving in armed conflict with an enemy of the United States; and

"(B) has been a citizen of the United States for at least ten years

shall, by virtue of such service, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless, such person is entitled to, or would, upon application therefor, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or in World War II

"(2) For the purpose of this subsection, World War I shall be deemed to have begun on July 28, 1914, and World War II shall be deemed to have begun on September 1, 1939."

By Mr. BENTSEN:

S.J. Res. 44. A joint resolution to authorize the President to designate the period beginning April 15, 1973, as "National Plumbing Industry Week." Referred to the Committee on the Judiciary.

Mr. BENTSEN. Mr. President, I am introducing today a joint resolution designating the week of April 15, 1973 as "National Plumbing Industry Week."

The 2 million member plumbing, heating, cooling, and piping industry is planning special activities that week to focus attention on the role their industry plays in providing for the health, comfort, and care of the people of this country.

They have chosen for their principal theme the efforts of the plumbing industry to keep our waters clean and the contributions of the piping industry toward maintaining cleaner environment. The pollution laws that we have enacted here will rely heavily on the men and women of the plumbing and piping industry and on the technological innovations that they have provided us.

In addition to these concerns, Mr. President, the plumbing and piping industries provide much of the convenience and high standard of living that we enjoy in America today. It is certainly fitting that we should recognize these efforts and achievements by designating the week of April 15 as "National Plumbing Industry Week."

By Mr. HUDDLESTON:

S.J. Res. 45. A joint resolution to provide for the erection of a memorial to those who served in the Armed Forces of the United States in the Vietnam war. Referred to the Committee on Interior and Insular Affairs.

Mr. HUDDLESTON. Mr. President, I am introducing today a joint resolution to authorize the Secretary of the Interior to erect a monument in the Nation's Capital that will honor all members of the U.S. Armed Forces who served in the Vietnam war.

This monument is not intended to glorify war, especially this particular war. Nor is it intended as a commentary on the wisdom of our involvement in the war.

Rather, it is designed to honor those Americans who had to bear the burden of our participation in the war, a burden greatly increased by the long and intense division it created within our own country. We as a nation are eternally in their debt.

Since the cease-fire announcement, the attention of the American people has been focused, and rightly so, on the plight of our prisoners of war and those listed as missing in action. But I hope we will not forget that since 1961 the Vietnam death toll of American soldiers killed in hostile action totals 45,937. Another 10,300 died from nonhostile causes, making the total death toll 56,237. The number of Americans wounded in action totals 303,622.

My own State of Kentucky has suffered dearly, along with the rest of the Nation. The latest Pentagon breakdown by States shows that 845 Kentuckians died from

hostile action and 186 from nonhostile causes. That is a total of 1,031 Kentuckians who gave their lives in the Vietnam war.

Mr. President, I hope that as a nation we will not merely view these figures as statistics. They are not. Each one represents a human life that has either been taken from us or has suffered grievous injuries in the service of his country.

I cannot help but think of the tremendous sacrifices that have been made in Nelson County, Ky., which is adjacent to my county of Hardin County, a county with scarcely more than 20,000 people. Yet no less than 12 Nelson County residents have given their lives in Vietnam. Tremendous sacrifices have been made by citizens of all the States throughout the Nation.

What I am proposing today is that we erect an appropriate monument in Washington to pay tribute to those who have served and sacrificed so greatly for their Nation.

Mr. President, in conclusion, a total of 2.5 million young men served this country in Vietnam. I hope if Congress does approve the erection of this monument that we do not see it as the end of our responsibility to these young men and women; that we now during this session review those programs that have been developed to aid our returning servicemen so that they can find a way to reform their lives and participate in the opportunities this great Nation extends to our people and overcome the handicap that they obtained by having to leave their peaceful pursuits and join in the pursuit of the policy of our country in a foreign, distant, and strange land, in a war that had not proved popular in our own country.

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

Mr. HUDDLESTON. I yield.

Mr. ROBERT C. BYRD. I want to congratulate my able colleague from my neighboring sister State of Kentucky for the proposal he has made. Coming from West Virginia—a State which gave 710 of its illustrious sons in hostile action, a State which, of the 50 States, has the highest number of killed in action in Vietnam per 1,000 population, to wit, 39.8—I join with the able Senator in this thoughtful expression of his sentiments. I think it is wholly appropriate that such recognition of their sacrifice be accorded to those men who have fought in what was perhaps the most thankless of all wars. I want to assure the distinguished Senator from Kentucky (Mr. HUDDLESTON) that I will give whatever support I can to his efforts in this regard.

By Mr. BARTLETT:

S.J. Res. 47. A joint resolution proposing an amendment to the Constitution of the United States relating to open admissions to public schools. Referred to the Committee on the Judiciary.

Mr. BARTLETT. Mr. President, I am introducing a constitutional amendment to prohibit the forced busing of our schoolchildren. It is very similar to the resolution previously offered by Mr. BROCK and cosponsored by myself, but it is unique in that it contains the same wording as the present Oklahoma law which has been ignominously ignored by our Federal courts.

The proposed amendment assures that no child shall be forced to attend a particular school because of his color. In its 1954 Brown decision, the Supreme Court quite properly dictated that color should play no part in deciding school attendance. The Court stated that students should be admitted on a "nonracial basis." Since the decision of 1954, the Supreme Court has retreated by ordering busing and in essence making color a criteria in determining which school a person attends. As I said in October 1970, discrimination to end discrimination is wrong and is a cure as sickly as the disease, itself.

In order to overturn the Supreme Court decision, it appears that a constitutional amendment is required. I hope other means of reinstituting neighborhood schools will become a reality because the route of a constitutional amendment is long and arduous. However, as no quicker alternative remedy is now evident, I believe this Congress must listen to the American people and pass a constitutional amendment forbidding this unworkable social experiment.

This is an opportunity for the Congress both to reflect the will of the people and to recapture the legislative process which has been so severely eroded by the Supreme Court. As this proposed amendment is very short, I ask unanimous consent that it be printed in full in the RECORD following my statement.

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

S.J. RES. 47

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. No public school student shall be assigned, transferred, or otherwise compelled to attend any school on account of his race, color, creed, or national origin.

"SEC. 2. The Congress shall have the power to enforce this article by appropriate legislation."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3

Mr. KENNEDY. Mr. President. I ask unanimous consent that the names of the following Senators be added as cosponsors to the bill S. 3, the Health Security Act: The Senator from South Dakota (Mr. ABOUREZK), the Senator from New York (Mr. JAVITS), and the Senator from West Virginia (Mr. RANDOLPH).

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

S. 12

At the request of Mr. WILLIAMS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 12, the Urban Parkland Heritage Act of 1972.

S. 39

At the request of Mr. CANNON, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 39, to amend the Federal Aviation Act of 1958, to provide a more effective program to prevent aircraft piracy and for other purposes.

S. 50

At the request of the Senator from Missouri (Mr. EAGLETON), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Vermont (Mr. AIKEN), the Senator from Alabama (Mr. ALLEN), the Senator from Tennessee (Mr. BAKER), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. BROOKE), the Senator from North Dakota (Mr. BURDICK), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from New Jersey (Mr. CASE), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CLARK), the Senator from Kentucky (Mr. COOK), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arizona (Mr. FANNIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Oregon (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MANSFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Rhode Island (Mr. PASTORE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Alaska (Mr. STEVENS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Ohio (Mr. TAFT), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors to S. 50, a bill to strengthen and improve the Older Americans Act of 1965, and for other purposes.

S. 174

Mr. MONTOYA. Mr. President, on behalf of Senators LONG, RIBICOFF and myself, I ask unanimous consent that the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Minnesota (Mr. MONDALE) be added as cosponsors of S. 174, to provide for coverage of outpatient drugs under medicare.

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

S. 200

At the request of Mr. MCINTYRE, the Senator from Colorado (Mr. HASKELL), the Senator from Virginia (Mr. SCOTT), the Senator from Iowa (Mr. HUGHES),

the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Alaska (Mr. STEVENS), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 200, a bill to require that new forms and reports, and revisions of existing forms, resulting from legislation be contained in reports of committees reporting the legislation.

S. 261

At the request of Mr. MUSKIE, the Senator from North Dakota (Mr. BURDICK) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 261, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 to provide for minimum Federal payments for 4 additional years, and for other purposes.

S. 335

At the request of Mr. CHURCH, the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 335, a bill to promote development and expansion of community schools throughout the United States.

S. 355

At the request of Mr. MANSFIELD (for Mr. MAGNUSON) the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 355, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes.

S. 370

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 370, authorizing the Secretary of Agriculture to carry out a program for flood prevention in the Lower Rio Grande Basin, Tex., to enhance and stabilize the agricultural economy of the area, and for other purposes.

S. 394

At the request of Mr. HUMPHREY, the Senator from Texas (Mr. BENTSEN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Mississippi (Mr. STENNIS), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 394, to amend the Rural Electrification Act of 1936, as amended, to reaffirm that such funds made available for each fiscal year to carry out programs provided for in such act be fully obligated in said year, and for other purposes.

S. 548

At the request of Mr. HUMPHREY, the Senator from Wyoming (Mr. MCGEE) and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 548, a bill to provide price support for milk at not less than 85 per centum of the parity price therefor.

S. 571

At the request of Mr. HANSEN, the Senator from Nebraska (Mr. HRUSKA) and the Senator from South Dakota (Mr. (MCGOVERN) were added as cosponsors of S. 571, a bill to amend the Federal Meat Inspection Act to require that imported meat be labeled "imported" at all stages of distribution until delivery to the ultimate consumer.

S. 584

At the request of Mr. BAYH, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 584, a bill to amend the act entitled "An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes," approved November 5, 1966.

S. 587

At the request of Mr. TOWER, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 587, to amend the Social Security Act to establish a national catastrophic illness insurance program under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost.

S. 609

At the request of Mr. MCGEE, the Senator from Idaho (Mr. CHURCH), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 609, a bill to amend the Internal Revenue Code of 1954 with respect to .22 caliber ammunition recordkeeping requirements.

SENATE JOINT RESOLUTION 27

At the request of Mr. TALMADGE, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of Senate Joint Resolution 27, a joint resolution proposing an amendment to the Constitution to provide that, except in time of war or economic emergency declared by the Congress, expenditures of the Government may not exceed the revenues of the Government during any fiscal year.

SENATE RESOLUTION 49—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON SMALL BUSINESS

(Referred to the Committee on Rules and Administration.)

Mr. BIBLE (for himself and Mr. JAVITS) submitted the following resolution:

S. RES. 49

Resolved, That the Select Committee on Small Business, in carrying out the duties imposed upon it by S. Res. 58, Eighty-first Congress, agreed to February 20, 1950, as amended and supplemented, is authorized to examine, investigate, and make a complete study of the problems of American small and independent business and to make recommendations concerning those problems to the appropriate legislative committees of the Senate.

SEC. 2. For purposes of this resolution, the committee, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use on a reimbursable basis the services of personnel of any such department or agency, (4) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(1) of the Legislative Reorganization Act of 1946, and (5) to provide assistance for the members of its professional staff in obtaining specialized training, in the same manner and under the same conditions as any such standing committee may provide that assistance under section 202(j) of such Act.

SEC. 3. The expenses of the committee under this resolution shall not exceed $188,000, of which amount (1) not to exceed $2,500 shall be available for the procurement of the services of individual consultants, or organizations thereof, and (2) not to exceed $1,000 shall be available for the training of the professional staff of such committee.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 50—SUBMISSION OF A RESOLUTION CONTINUING, AND AUTHORIZING ADDITIONAL EXPENDITURES BY, THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

(Referred to the Committee on Rules and Administration, by unanimous consent.)

Mr. MCGOVERN. Mr. President, for myself, Mr. PERCY, Mr. HART, Mr. KENNEDY, Mr. COOK, Mr. SCHWEIKER, Mr. TAFT, Mr. HUMPHREY, and Mr. MONDALE, I submit a resolution. I ask unanimous consent that the resolution calling for the extension of the Select Committee on Nutrition and Human Needs, which was approved unanimously by the committee earlier this week, be referred to the Committee on Rules and Administration. This matter has been cleared on both sides of the aisle with the chairman and ranking member of the Committee on Labor and Public Welfare, which ordinarily would get this resolution.

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

The resolution is as follows:

S. RES. 50

Resolved, That the Select Committee on Nutrition and Human Needs, established by Senate Resolution 281, Ninetieth Congress, agreed to on July 30 1968, as amended and supplemented, is hereby extended through February 28, 1974.

SEC. 2. (a) In studying matters pertaining to the lack of food, medical assistance, and other related necessities of life and health, the Select Committee on Nutrition and Human Needs is authorized from March 1, 1973, through February 28, 1974, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to subpena witnesses and documents, (4) with the prior consent of the Government department or agency con-

cerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (5) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, (6) to interview employees of the Federal, State and local governments and other individuals and (7) to take depositions and other testimony.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

SEC. 3. The expenses of the committee under this resolution shall not exceed $291,000 of which amount not to exceed $20,000 shall be available for the procurement of the services of individual consultants or organizations thereof.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Mr. PERCY. Mr. President, as the ranking minority member of the Select Committee on Nutrition and Human Needs as well as a public official deeply concerned about the problem of hunger and malnutrition in this country, I enthusiastically endorse the resolution extending the mandate of the select committee for 1 year.

I believe this committee has played an extremely important role in the progress we have made in the last 4 years toward closing the hunger gap in America. I believe it has an equally vital role to play in completing the task President Nixon set out for us in May 1969 of eliminating hunger from America for all time.

The select committee must continue the efforts which have lead to a rapid expansion of the U.S. Department of Agriculture's food assistance programs. The select committee must continue the study of nutrition education it began last December, for it is not enough to assure access to food if we do not know what food to eat to enjoy good health. The select committee must continue its advocacy on behalf of the poor, the sick, the elderly, and other nutritionally vulnerable groups who are supposed to be the beneficiaries of Federal feeding programs.

The select committee has a solid record on which to build in the year ahead and it has developed an expertise which will be invaluable in carrying on the fight against hunger and malnutrition. While the hunger gap still exists in this country we cannot afford to let this experience and expertise go to waste.

If we extend the mandate of the select committee for another year, then I believe we shall make greater progress in improving the nutrition of the American people. Better nutrition will in turn mean better health for all Americans and, of course, public and private savings on health care.

I urge favorable action on the resolution.

SENATE RESOLUTION 51—SUBMISSION OF A RESOLUTION CONTINUING, AND AUTHORIZING ADDITIONAL EXPENDITURES BY, THE SPECIAL COMMITTEE ON AGING

(Referred to the Committee on Rules and Administration, by unanimous consent.)

Mr. CHURCH. Mr. President, I send a resolution to the desk and ask that it be referred to the Committee on Rules and Administration.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, may I inquire of the distinguished Senator from Idaho what the resolution is about.

Mr. CHURCH. Yes. The resolution is a routine resolution having to do with the request for funds for the Committee on Aging, and it goes to the Committee on Rules and Administration. Today, I understand, is the deadline.

Mr. GRIFFIN. Mr. President, understanding that the resolution routinely would be referred to the Committee on Rules and Administration, I have no objection.

The PRESIDING OFFICER. The measure would ordinarily be referred to the Committee on Rules and Administration.

Without objection, it is so ordered.

The text of Senate Resolution 51 is as follows:

S. RES. 51

Resolved, That the Special Committee on Aging, established by S. Res. 33, Eighty-seventh Congress, agreed to on February 13, 1961, as amended and supplemented, is hereby extended through February 28, 1974.

SEC. 2. (a) The committee shall make a full and complete study and investigation of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and, when necessary, of obtaining care or assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill or otherwise have legislative jurisdiction.

(b) A majority of the members of the committee or any subcommittee thereof shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the committee, shall constitute a quorum for the purpose of taking sworn testimony.

SEC. 3. (a) For purposes of this resolution, the committee is authorized from March 1, 1973, through February 28, 1974, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate, (4) to require by subpena or otherwise the attendance of witnesses and the production of correspondence, books, papers, and documents, (5) to administer oaths, (6) to take testimony orally or by deposition, (7) to employ personnel, (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, and (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

SEC. 4. The expenses of the committee under this resolution shall not exceed $404,362, of which amount not to exceed $15,000 shall be available for the procurement of the services of individual consultants or organizations thereof.

SEC. 5. The committee shall report the results of its study and investigation, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date, but not later than February 28, 1974. The committee shall cease to exist at the close of business on February 28, 1974.

SEC. 6. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 52—ORIGINAL RESOLUTION REPORTED RELATING TO EXPENDITURES BY THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

(Referred to the Committee on Rules and Administration.)

Mr. McGEE, from the Committee on Post Office and Civil Service, reported the following original resolution:

S. RES. 52

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Post Office and Civil Service, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $275,000.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1974.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 53—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

(S. REPT. NO. 93-9)

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution, and submitted a report thereon:

S. RES. 53

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Rules and Administration, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Rules and Administration, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, to expend not to exceed $331,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $125,000 shall be available for a study or investigation of privileges and elections.

SEC. 4. Not to exceed $206,000 shall be available for a study or investigation of computer services for the Senate, of which amount not to exceed $20,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1974.

SEC. 6. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 54 AND SENATE RESOLUTION 55—ORIGINAL RESOLUTIONS REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

(Referred to the Committee on Rules and Administration.)

Mr. JACKSON. Mr. President, everyone knows of the recent tragedy encountered by Senator STENNIS and in the absence of Senator SYMINGTON from the city I send to the desk two resolutions from the Committee on Armed Services.

One resolution authorizes an additional increment of $60,000 for the full committee for routine purposes.

The other resolution authorizes additional expenditures in the amount of $520,000 for inquiries and investigations during the first session.

Both of these resolutions have been approved by the full committee.

The resolutions are as follows:

S. Res. 54

Resolution authorizing additional expenditures by the Committee on Armed Services for routine purposes.

Resolved, That the Committee on Armed Services is authorized to expend from the contingent fund of the Senate, during the Ninety-Third Congress, $60,000 in addition to the amount, and for the same purposes specified in section 134(a) of the Legislative Reorganization Act of 1946.

S. RES. 55

Resolution authorizing additional expenditures by the Committee on Armed Services for inquiries and investigations

Resolved, That, in holding hearings, reporting such hearings, making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Armed Services, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Armed Services is authorized from March 1, 1973, through February 28, 1974, to expend not to exceed $30,000 for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The Committee on Armed Services, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, to expend not to exceed $490,000, to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

SEC. 4. Not to exceed $337,000 shall be available for a general study or investigation of—

(1) the common defense generally;

(2) the Department of Defense, the Department of the Army, the Department of the Navy and the Department of the Air Force generally;

(3) soldiers' and sailors' homes;

(4) pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces;

(5) selective service

(6) the size and composition of the Army, Navy and Air Force;

(7) forts, arsenals, military reservations, and navy yards,

(8) ammunition depots,

(9) the maintenance and operation of the Panama Canal, including the administration, sanitation, and Government of the Canal Zone;

(10) the conservation, development, and use of naval petroleum and oil shale reserves;

(11) strategic and critical material necessary for the common defense; and

(12) aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.

SEC. 5. Not to exceed $153,000 shall be available for studies and investigations pertaining to military readiness and preparedness for the common defense generally.

SEC. 6. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1974.

SEC. 7. Expenses of the committee under this resolution, which shall not exceed in the aggregate $520,000 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 56—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution:

S. RES. 56

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate as far as applicable, the Committee on the Judiciary, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services or personnel of any such department or agency.

SEC. 2. The Committee on the Judiciary, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, to expend not to exceed $4,312,300 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution. For the purposes of this resolution, the committee or a duly authorized subcommittee thereof, or the chairman of the committee or of such subcommittees, or any other member of the committee or of such subcommittee designated by the chairman of the committee, may issue subpenas under the authority vested in the committee by section 134(a) of such Act.

SEC. 3. Not to exceed $388,800 shall be available for a study or investigation of administrative practice and procedure, of which amount not to exceed $3,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 4. Not to exceed $769,000 shall be available for a study or investigation of antitrust and monopoly, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. Not to exceed $265,000 shall be available for a study or investigation of constitutional amendments, of which amount not to exceed $12,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 6. Not to exceed $354,000 shall be available for a study or investigation of constitutional rights, of which amount not to exceed $10,000 may be expended for the

procurement of individual consultants or organizations thereof.

SEC. 7. Not to exceed $238,000 shall be available for a study or investigation of criminal laws and procedures.

SEC. 8. Not to exceed $15,500 shall be available for a study or investigation of Federal charters, holidays, and celebrations.

SEC. 9. Not to exceed $240,000 shall be available for a study or investigation of immigration and naturalization.

SEC. 10. Not to exceed $259,000 shall be available for a study or investigation of improvements in judicial machinery.

SEC. 11. Not to exceed $612,000 shall be available for a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950, as amended, (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States, and (3) the extent, nature, and effect of subversive activities in the United States, its territories and possessions, including, but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organization controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence or otherwise threatening the internal security of the United States. Of such $612,000, not to exceed $3,785 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 12. Not to exceed $367,700 shall be available for a study or investigation of juvenile delinquency, of which amount not to exceed $14,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 13. Not to exceed $185,000 shall be available for a study or investigation of patents, trademarks, and copyrights.

SEC. 14. Not to exceed $79,000 shall be available for a study or investigation of national penitentiaries, of which amount not to exceed $1,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 15. Not to exceed $227,000 shall be available for a study or investigation of refugees and escapees, of which amount not to exceed $2,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 16. Not to exceed $62,300 shall be available for a study or investigation of revision and codification.

SEC. 17. Not to exceed $250,000 shall be available for a study or investigation of separation of powers between the executive, judicial, and legislative branches of Government, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 18. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1974.

SEC. 19. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 57—SUBMISSION OF A RESOLUTION DESIGNATING A ROOM IN THE CAPITOL AS THE "STYLES BRIDGES ROOM"

(Referred to the Committee on Rules and Administration.)

Mr. COTTON submitted the following resolution:

S. RES. 57

Resolved, That the room located in the United States Capitol and designated as number S–120 is hereby designated, and shall be known, as the "Styles Bridges Room".

SEC. 2. (a) Any law, regulation, document, map, or record of the United States in which reference is made to the room referred to in the first section of this resolution shall be held and considered to be a reference to the "Styles Bridges Room".

(b) The Committee on Rules and Administration is hereby authorized and directed to place an appropriate marker or inscription at a suitable location or locations to commemorate and designate such room as provided herein. Expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of such committee.

SENATE RESOLUTION 58—SUBMISSION OF A RESOLUTION TO AMEND RULE XXV RELATIVE TO OPEN AND CLOSED SESSIONS OF COMMITTEES

(Referred to the Committee on Rules and Administration.)

Mr. CHILES. Mr. President, the interpretation given to the provisions of section 133(6) of the Legislative Reorganization Act of 1946, as amended, appears to keep committee meetings closed and prevents them from being opened up. It appears necessary to change the Senate rules in such a way so as to allow every committee to, by its own rule, open up its meetings to the public.

I am delighted to join my Senate colleagues from the Joint Committee on Congressional Operations in offering a proposed Senate rules change which would allow every committee to establish a rule to open up its meetings to the public by rule of majority vote with no exceptions. Exceptions can be adopted by individual committees.

Mr. President, while I support the proposed rule change, I personally feel the Congress can and should go further in this area and even extend "Government in the Sunshine" to the executive as well—my bill S. 260 would go a long way to extend this goal to both the executive and legislative branches of the Government.

Mr. METCALF. Mr. President, the provisions of the Legislative Reorganization Act of 1970 are at least ambiguous as to the right of Senate standing committees to hold open hearings for the mark-up and voting upon Senate bills.

Under the provisions of section 101 of the Legislative Reorganization Act the right of the Senate to change its rules despite the provisions of statute is specifically set forth.

That section is as follows:

SEC. 101. The following sections of this title are enacted by the Congress—

(1) insofar as applicable to the Senate, as an exercise of the rulemaking power of the Senate and, to the extent so applicable, those sections are deemed a part of the Standing Rules of the Senate, superseding other individual rules of the Senate only to the extent that those sections are inconsistent with those other individual Senate rules, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings; and

Of course that is merely a restatement of the constitutional power of the Senate to make its own rules of procedure.

In view of the fact that some of the committees of the Senate are desirous of having open sessions, not only for hearings but for consideration and marking up of the bills which have heretofore been done in closed sessions the Senate Members of the Joint Committee on Congressional Operations have unanimously joined with Senator CHILES in the recommendation that the Senate adopt a rule permitting open hearings.

The resolution is as follows:

S. RES. 58

To amend Rule XXV, Section 7, as follows:

After the number "7.", insert (a)

At the end of the paragraph, insert a new Section (b) as follows: "(b) Meetings for the transaction of business of each standing committee shall be open to the public except when the committee by rule or by majority vote, determines otherwise."

This rule makes it clear that committees of the Senate may adopt such rules for open or closed meetings as a majority of the committee deems appropriate.

At the same time the proposed rule would state a general Senate policy that meetings and hearings are to be open.

On behalf of the Senate Members of the Joint Committee the Senator from Florida, Senator CHILES, has been requested to introduce the Resolution, cosponsored by all of the above Senators.

AUTHORIZATION OF APPROPRIATIONS FOR THE CONSTRUCTION OF CERTAIN HIGHWAYS—AMENDMENTS

AMENDMENT NO. 4

(Ordered to be printed and referred to the Committee on Public Works.)

Mr. MUSKIE (for himself, Mr. BAKER, Mr. BIDEN, Mr. BROOKE, Mr. BUCKLEY, Mr. CASE, Mr. CRANSTON, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. JAVITS, Mr. PASTORE, Mr. PELL, Mr. PROXMIRE, Mr. RIBICOFF, Mr. STEVENSON, and Mr. TUNNEY) submitted amendments, intended to be proposed by them, jointly, to the bill (S. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

NOTICE OF HEARINGS ON S. 470 AND S. 488

Mr. WILLIAMS. Mr. President, I should like to announce that the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs will hold 3 days of hearings on S. 470 and S. 488. S. 470 which I introduced with Senators BENNETT and TOWER deals with membership on national securities exchanges, the use of brokerage commissions to pay for securities research, the sale of management companies which have advisory contracts with mutual funds, and related matters. S. 488, introduced by Senator SPARKMAN, deals with membership on national secu-

rities exchanges and the elimination of fixed commission rates.

The hearings will be held in room 5302 on February 20 and 21 at 2 p.m. and on February 22 at 10 a.m.

The subcommittee will welcome statements for inclusion in the record of hearings.

NOMINATION HEARING ON LEWIS ENGMAN TO BE MEMBER OF THE FEDERAL TRADE COMMISSION

Mr. MOSS. Mr. President, on Monday, the distinguished chairman of the Senate Commerce Committee, Mr. MAGNUSON, publicly announced that hearings would be held on the nomination of Lewis Engman of Michigan to be a member of the Federal Trade Commission. In order that there be more widespread notification of this hearing, I ask unanimous consent that the announcement be printed in the RECORD.

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

FROM THE SENATE COMMITTEE ON COMMERCE

Chairman Warren G. Magnuson, Democrat of Washington today announced that the Senate Commerce Committee will hold a hearing on the nomination of Lewis Engman of Michigan to be a member of the Federal Trade Commission.

The hearing will be held on February 5, 1973. Senator FRANK E. Moss, Democrat of Utah will preside at the hearing which will begin at 10 a.m. in room 5110 of the New Senate Office Building.

For further information, please contact Michael Pertschuk or Edward Merlis at (202) 225-9321.

NOTICE OF HEARINGS ON RECOMMENDED JUDGESHIPS

Mr. BURDICK. Mr. President, I wish to announce continuation of the public hearings before the Subcommittee on Improvements in Judicial Machinery relating to the recommendations of the Judicial Conference of the United States for creation of an additional 51 judgeships.

On February 6, 1973, the hearing will be held, commencing at 10 a.m. in room 2228, Dirksen Office Building. The witnesses scheduled for that date will be the chief judges of the district in the northern, middle, and southern districts of Alabama.

On February 7, 1973, the chief judges from the middle and southern districts of Florida and the northern district of Georgia will appear—commencing at 10 a.m. in room 2228 Dirksen Office Building.

Communications relative to this series of hearings should be directed to the subcommittee staff, 6306 Dirksen Office Building, extension 5-3618.

ADDITIONAL STATEMENTS

MEMBERSHIP OF JOINT COMMITTEE ON DEFENSE PRODUCTION

Mr. SPARKMAN. Mr. President, section 712(a)(1) of the Defense Production Act, as amended, provides that the Joint Committee on Defense Production shall be composed of 10 members, five of them members of the Senate Committee on Banking, Housing and Urban Affairs, and five of them members of the House Committee on Banking and Currency. The law provides that these five members from each of the committees are to be appointed by the chairmen of the respective committees, three from the majority and two from the minority party.

The Senate members of the Joint Committee on Defense Production will be Senators SPARKMAN, PROXMIRE, WILLIAMS, TOWER, and BENNETT.

AGRICULTURE AND THE PUBLIC AT LARGE

Mr. CURTIS. Mr. President, I joined more than a year ago with the Honorable GEORGE MAHON, Congressman from Texas, in an effort to develop a national, nongovernmental organization to help carry the positive side of agriculture straight to the American people. This effort is on the threshold of success. Plans have been discussed and developed to the point where a number of representatives of agricultural organizations and agribusiness firms are banding together to take on the job.

One of the persons who has been very active and helpful in carrying this movement toward its desired goal is Mr. John W. Megown, of Marion, Iowa, chairman of the Iowa Agriculture Promotion Board. A little over a month ago, Mr. Megown made a speech before the annual meeting of the American Society of Farm Managers and Rural Appraisers at St. Louis, Mo. The title of this speech was "Stand Up For Agriculture." I ask unanimous consent to have the pertinent portions of his speech entered in the RECORD in order to point out to the Senate some of the steps that have been taken and others that still need to be taken to accomplish the desired goal of better communication between agriculture and the public at large.

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

STAND UP FOR AGRICULTURE

Any way you slice it, agriculture no longer has as much political clout in Congress as it did a short time ago and Congress is certainly going to be a much tougher nut to crack this time around. Based on the redistricting, which set the stage for even greater urbanite domination of Congress, and the subsequent congressional elections, we now have only a very small handful of true agricultural advocates in the halls of Congress. Each of you probably is familiar with some of them. You should try to pinpoint all of them and communicate with them on important agricultural issues. I'm sure that your organization's officers and staff can help you in doing this.

This agriculturally-oriented minority in Congress is going to need our strong support in the months and years just ahead. We're all going to have to have to do a much better job of telling the story of American agriculture. It's a story that must be told. We're also going to have to quickly adopt modern methods of communicating our story.

Why should all of us try to do a better job of telling the story of agriculture? If we don't tell it better, we're going to have more and more problems . . . What with much of the vast urban public constantly misunderstanding argiculture and oftentimes downgrading its importance to this Nation.

Let me ask all of you a few questions: How many of you have read some confusing or misleading stories in newspapers, and magazines, or seen erroneous television presentations, that could have caused misimpressions by people who aren't knowledgeable enough about agriculture? How many of you saw or heard about the eastern food chain newspaper advertisements that attempted to place much of the blame for higher retail meat prices on the source? How many of you are aware of the recent attacks on our agricultural universities? How many of you have heard about meat boycotts by big city housewives? I could go on and on with questions like these, but I see I don't have to, because you obviously know exactly what I mean when I speak of creating misunderstandings.

So far, the year 1972 has certainly been an extremly tough one from the standpoint of agriculture's image situation. By image, I am referring to what others think of us, or how they view us. Many times the facts about agriculture have been obscured by emotional rhetoric, which helped to confuse some of our city cousins and created more misimpressions. Agriculture has been a sitting duck for some articulate consumer advocates, environmentalists, politicians, urban-interests spokesmen, and just about every cause-happy character that felt like taking a pot shot at it.

Why does agriculture seem so vulnerable on this score? There are probably many reasons; one of which might relate partly to the man of the soil's age-old belief that everything will usually work out all right in the end; along with his natural diffidence when it comes to bragging about his accomplishments and contributions.

Also, it would appear that many people involved in farming and agribusiness, until very recently, just couldn't seem to see any necessity for telling the story of agriculture. Another factor relates to an apparent lack of unity within agriculture, which is needed in order to get this important job done right.

The need for effectively telling this story and for more unity on this issue has been dramatically highlighted during the past ten or twelve months.

We're going to have to, as I said before, begin to quickly adopt modern communications methods to get this job done, and to get it done right. We must also quit being so darned modest and bashful about telling our story. It's a story to be proud of.

Let me give you a hypothetical example of what's been wrong with agriculture in this regard.

In a recent eastern State election there was a fine, moderate man running for the United States Congress. His credentials were impeccable. He was well-educated, but not an egghead; he was a successful businessman, but a socially-conscious one. His two sons had served with honor in Vietnam; his daughter planned to enter the Peace Corps on graduating from college. To a man, whether right or left wing, black or white, everybody with whom this man came in personal contact liked and respected him. I repeat: Everybody with whom he came in *personal* contact liked and respected him.

The man had one problem, the way he looked and sounded on radio and television. Before a microphone or camera he appeared dull to the point of blandness. His advisors were worried that this deficiency, if such it was, could cost him the election. The candidate disagreed and was even contemptuous of their advice. His candidacy, he insisted, would rise or fall on his integrity and his personal magnetism . . . whether or not that magnetism showed to best advantage over the electronic media.

His staff persisted: wouldn't he please consent to a professional makeup man; to some pointers from a media expert; to certain little tricks which would make him look more natural and interesting? They showed him his slipping polls, they forced him to watch his lackluster performances.

But the man was adamant. He would not be seduced by the cynical magics of Madison Avenue.

The man of principle lost the election to a lesser man, a bona fide carpetbagger whose only interest was his own career.

Now some of you are thinking of the "good" candidate, he's a man to be admired, even if he was defeated. But I question that. If, as he claimed, he was really the best man, and had our country's best interests at heart, then he would not have been so stubborn, so resistant to modern techniques and the tools at hand. Think of it this way, because of his reluctance, whether it was the reluctance of principle or petulance, he allowed an obviously inferior, self-serving opponent to be seated in our Congress. If practicality had been his first principle, then he could have had his ultimate principle, too: the betterment of the United States.

In traveling around the country, I meet a lot of agri-business people and farmers who are like that other fine-principled man. They seem to know deep down that we must do a better job of telling agriculture's tremendous story, but they are just too complacent. They don't seem to realize what's really at stake. They stand on the easy principle that American agriculture has made great contributions to this country of ours and people should recognize this fact, but they don't want to really get involved in finding the ways to effectively tell this great story.

The congressional candidate's final emotion was a bittersweet satisfaction of knowing he was right, but he and his district were the losers. Agricultural people can also have this same type of bittersweet satisfaction of knowing that they have contributed greatly to this nation, and they also can someday in the future possibly be the losers.

But I say to you that the fruits of that kind of defeated satisfaction are sour indeed when compared to the fruits of getting what should rightfully be ours . . . the public's understanding of our contributions and their recognition that we are a vital part of the Nation's economy and social structure. We don't want their sympathy, we just want them to listen to our story and try to understand it. We must find ways to prevent and counter attacks on agriculture by consumers, consumer advocates, urbanites, politicians, newspaper editors, etc. We must go on the offensive from a communications standpoint.

And how to do this? One means of accomplishing it has recently been set in motion. It happened at two meetings; one in the U.S. capitol building on October 13, 1972, and one in Chicago on November 16, 1972. Here's the story on this:

In June of 1971, it was my good fortune to share the rostrum at the Nebraska Agricultural Communications Conference at the University of Nebraska with a man by the name of Don Shasteen. Don is Republican U.S. Senator Carl Curtis' executive assistant. In my speech I called for a "Summit Conference" of Agriculture's Public Relations and Communictions pros. Don called on business leaders to help tell agriculture's story.

After listening to each other's speeches, we found we had a common cause. It was to try to improve agricultural communications methods in order to improve agriculture's image.

A few weeks later a man by the name of Allen Paul wrote and then phoned me from Washington, D.C., to discuss some of the proposals made in the Nebraska speeches. Allen is executive director of the National Agricultural Institute in Washington. He had read the newspaper publicity about Don's and my speeches and wanted us to all work closely together to see what could be accomplished.

Going back a moment, I want to quickly tell you more about Senator Curtis' project as reported by Don Shasteen at the communications conference back in June of 1971. Senator Curtis had written to 150 of the Nation's leading agri-business corporations, including some of the big multi-industry companies that depend upon agriculture for a good share of their product markets. He asked them whether they would be willing to assist in a broad, national agricultural communications effort aimed at the general public.

The response was very positive . . . positive in terms of wide recognition that such a program is needed, and positive from the standpoint of willingness to do something about it.

So on November 8, 1971, a group of top-level people assembled in the U.S. Capitol building for an exploratory meeting. The meeting was hosted by Senator Curtis and Democratic Congressman George Mahon from Texas and arranged for by the National Agricultural Institute. From this meeting came the Curtis-Mahon ad hoc study committee on agricultural communications, which by May 13, 1972, had studied the situation in great depth and recommended the formation of a temporary "National Agricultural Communications Board" (NACB). Allen Paul of the National Agricultural Institute was chosen to coordinate this project. Ben Maas, rural marketing manager of American Oil Company, was elected temporary chairman.

On October 13, 1972, a permanent NACB came into existence, which we hope will provide the ways and means for establishing a continuing, positive, non-partisan organization structure at the national level to coordinate agricultural communications and public affairs efforts. This is what has been needed for so long, a high-level national advisory organization with the sole purpose of improving agricultural communications to the public.

Then, in Chicago on November 16. 1972, a formal organizational meeting of the NACB was held. By-laws were approved and officers and board of directors were elected. The officers are: Chairman, John Selensky of Occidental Chemical Co.; vice-chairman, myself; secretary-treasurer, W. W. Gaston of Gold Kist, Inc., and finance chairman, Gail Janssen of Badger Northland, Inc. We are now geared for action.

And you can bet that we are not going to be like our fine-principled congressional candidate, we're going to adopt and utilize all the modern communications techniques and tools at hand. We're going to communicate our story through modern media techniques. . . . "exploit" it in the best sense of that word.

We have a fantastic story to tell to the American people. American agriculture is truly the envy of the globe, yet in the United States, it is too often taken for granted.

Agriculture is truly an unequalled boon to our economy. To most Americans that's a surprising statement. They still seem to think that the farmer's major contribution to our society is his daughters . . . which he is always naively putting at the disposal of traveling salesmen. That's a round-about way of blaming the farmer for yet another crime: The population explosion.

This could be one of those agricultural misimpressions that I keep talking about. There obviously are others that we must know much more about. To do this communications job properly, we felt that we needed first to do an attitude study on agricultural issues. So, earlier this year a number of agri-business companies donated funds to do an exploratory research study with people from various walks of life; most of them being urbanites.

The study was coordinated by the National Agricultural Institute and conducted by the Opinion Research Corporation of Princeton, New Jersey; one of the leading firms of this type.

We could literally spend hours going over this one research report, since twenty-one specific hypotheses were developed in the course of the exploratory research. To quickly summarize, the research results strongly suggest that consumers do not have clear and accurate views of a good many issues which relate to agriculture. It would appear that contradictory communications, which promote points of view from conflicting sources, may have created confusion among many consumers . . . apparently consumer understanding is hampered by lack of information.

The lack of firm and clear positive views represents a danger in that the public might prove susceptible to sudden negative shifts due to random events or negative publicity.

The following five areas were indicated as where the need for educational effort is greatest at the present time, and the potential pay-off in favorable attitude shifts and consumer good will is most profound:

(1) social status of farmers.
(2) corporate farms.
(3) food prices.
(4) farm programs.
(5) food safety.

In the future we hope to be able to study public attitudes further by means of other opinion research projects. We must know more about consumer attitudes in order to overcome existing erroneous beliefs and misimpressions.

Another area that needs attention is the compilation of agricultural data and facts . . . the basic information that needs to be communicated must be accumulated and carefully checked out. It also must be prepared in easily understandable form.

Here, for example, is some of the basic positive-type information that probably should be told in the most effective way possible:

The farmer's contributions to our economy are almost unimaginably large. Three out of every ten jobs in our country today are related directly or indirectly to agriculture. Farming's assets total over $335 billion, equal to roughly one-half of the market value of all corporation stocks on the New York Stock Exchange; or to about three-fifths of the value of the capital assets of all corporations in the United States. Farmers carry a debt load of more than $65 billion. Farmers spent over $44 billion on production costs in 1971. Projected production costs for 1972 should be over $46 billion. There's another $30 billion or so that farmers invest, spend on consumer goods or services, or pay in income taxes.

Farming itself employs about 4.4 million workers. Just think about that, only 4.4 million farm workers are now feeding and clothing a Nation with a population of about 207 million people. The USDA tells us that in 1971 one farmer produced enough to feed 48 persons (41.2 persons at home and 7.0 persons abroad).

Back in 1930, there were 12.5 million farm workers out of a total population of 123 million (took care of himself and 9 others).

Under Secretary of Agriculture Phil Campbell recently said, "an efficient American agriculture has kept pace with the changing society and moved America from bread and potatoes to a high protein diet in keeping with the times in which we live." He went on to say, "in the past 10 years output per man-hour in agriculture increased about three-fourths . . . nearly two and a half times as fast as the increse of 30 percent registered by non-farm workers."

U.S. agricultural exports tallied a record $8 billion in the 1971–72 fiscal year. They should reach $10 billion in the fiscal year ending next June 30, 1973. This means the United States is the world leader in agricultural exports. Farm products make up nearly one-fifth of all U.S. exports. These agricultural exports generate a positive contribution to the U.S. balance of payments and to our whole economic picture.

Today, Americans spend less than 16 cents out of each take-home dollar for food. This is by far the lowest of any country. Yet con-

sumers and newspaper writers seem to be constantly griping about high food prices. Earlier this year when beef prices were under fire, it was found that the farmers were actually receiving the same prices they received 20 years ago for beef. The average consumer is now, however, eating a whopping 115 pounds of beef, compared to only 56 pounds 20 years ago.

I could go on and on quoting you impressive facts and statistics, but that is not really the purpose of my talk today. My purpose is simply to act something like a cheerleader to get you enthused about promoting American agriculture, as an important agricultural organization and as individuals.

We have personally been involved with a multitude of public relations and communications projects to try to improve the image of American agriculture. We have thought of numerous projects to try to get the job done and have kept a watchful eye for projects being conducted by others. During the past couple of years, there has been a tremendous increase in projects of this type.

In the closing minutes, I'd like to review certain things that have already been done by some agriculturally-oriented people. I hope you will be inspired to think of ways to adapt some of their ideas to your own uses, and to evolve some new ideas of your own.

Item: The Linn County (Iowa) Farm Bureau Women's Organization developed a farm-oriented fashion show for service clubs. The objective? To illustrate in a humorous way the mounting cost of producing farm products.

Item: A farm family near Marion, Iowa, regularly conducts farm tours for grade school children, and conducted one special tour for city businessmen. They put price tags on all the farm equipment. The purpose of this tour? To prove to city people that running a farm is a costly operation and a grave risk for the farmer.

Item: In Oregon a group of farm wives formed "Women for Agriculture," an issues-oriented public relations and educational group. Touring their State, they give speeches, lobby in the State legislature, conduct tours, set up displays and show films. The purpose of their group? To show city people, particularly city housewives, that farming is not the easy or profitable life so many uninformed citizens presume it to be.

(Item) Farmland industries has produced several series of four-color Sunday supplement advertisements which tell the urban audience the real facts about food prices, the importance of agriculture to our Nation and rural ecology. They also ran an ad telling the importance of agriculture in the Rotary magazine. The purpose of the advertisements? To prove that farmers have nothing to do with food prices as such, to show the great contributions of farmers and to show that a lot of "farm pollution" talk is impetuous.

(Item) "Women for the Survival of Agriculture in Michigan" came into being in September of 1971. Has hundreds of members. Their objectives? To become better informed about agricultural issues and to inform the public about the economic side of the agricultural story.

(Item) The Vigortone Products Company launched its "farm products national promotion" back early in 1969. Included in the program were several bumper stickers promoting farm products as being good foods. They included: "Beef is good food"; "pork is good food"; "milk is good food"; and "eggs are good food"; et cetera. We also, in mid-1969, originated "non-commercials" on some 45 radio stations telling the farmer's story and selling none of our products whatsoever. Then, on July 4, 1970, we introduced a farmer pride-building program consisting of a sticker saying, "I'm proud to be a farmer," plus a radio interview series and speeches before farmer groups. Then in 1971, we introduced the "Agriculture—America's Number One Industry" bumper sticker. Almost 1 million stickers have now been distributed. The purpose of these projects? To help to promote farming and farm products and to emphasize the importance of agriculture to our Nation.

(Item) During the past couple of years the Wisconsin Agribusiness Council, under the direction of Russ Weisensel, has been very active. The objective of this group of farmers and agri-businessmen? To help tell agriculture's story from the offensive standpoint rather than the defensive.

(Item) Recently a group known as "CAST" (Council for Agricultural Science and Technology) was created by several major scientific agricultural societies. The purpose of CAST? To provide objective information on agricultural science and technology to the mass media, the Government and directly to the public.

(Item) earlier this year a group of volunteers called the "Illini 500" was organized by the Illinois Department of Agriculture. The purpose of the organization? To provide volunteer speakers for urban civic groups to tell agriculture's story.

We could spend an hour, or more, just citing examples of outstanding and unique agricultural communications and public affairs projects. If we had the time, we could describe those of New Holland, Southern States Cooperative, Funks Seeds International, International Harvester, Pioneer Hi-bred International, Kent Feeds, Standard Oil and others. We could talk about "operation fact," a national food and agricultural communications tour of seven major cities made by four operating farmers last spring. Yes, we would like to do this, but I'm sure by now we have given you sufficient food for thought.

As you can see, some of these programs were expensive and demanded professional talent; but many were grass-roots programs, done by the farmers and their families themselves very inexpensively. And each in its way, whether it was the quiet way of the farm tour for grade school children, or the bugle-blasting way of the four-color Sunday supplement advertisement; each in its way contributed to a common objective . . . familiarizing urban America with farm products and the contributions of agriculture.

I realize, of course, that it has been necessary for us to speak first among and to ourselves . . . the express purpose of the Curtis-Mahon study committee and speeches like this one. We must determine to unite; to rally around the hard accomplishments and pride inherent in the story of agriculture; to emphasize similarities and waylay our differences and when we've decided what must be said . . . then we quit talking to ourselves and address the American public.

I feel that if we take the true story of agriculture to the American people with the kind of pride the story deserves . . . and if we begin to utilize the many modern communications methods and tools of today . . . we might get a better shake in the scheme of things. We must try to make the communications aspect of agriculture as effective as the food-producing aspect. All of the various agricultural factions should unite in this particular effort. We cannot afford to have dissension in our ranks, like has happened so often. At least in telling our story, we must present a strong united front.

Our mission is to get the story out and impressed on the consciences of all of our citizens. We've discussed some of the ways in which this has and can be done . . . from the farm tours for urban businessmen to the National Agricultural Communications Board.

I believe in the end that all these efforts will be worth it.

I believe that in the end Americans everywhere will understand that in saying "stand up for agriculture" a person is really saying "Stand Up for America."

THE KING OF FRANCE AND TWICE TEN THOUSAND MEN

Mr. MOSS. Mr. President, the Aeronautical and Space Sciences Committee has a new chairman. That chairman was not a member of the committee, and he is without experience in the mysteries of weighing the machinations of OMB with the advent of the release of the sacred budget insofar as that budget relates to the activities of the Aeronautical and Space Sciences Committee.

I confess to you, as the new chairman, that I have only commenced the learning experience which any newly appointed chairman of a full committee must do, but my initial reaction to the President's budget is one of puzzlement. I, too, am concerned with him about the rising governmental costs and the need for a sound fiscal policy. But I inquire of you, what is our course? Do we simply whack away at statistics without any long range planning? And what of the needs of the country?

On January 26, 1973, in the magazine Science appeared a very thoughtful editorial by Phillip H. Abelson, president of the Carnegie Institute of Technology, entitled, "Technological Initiatives and Political Realities." Mr. Abelson begins as follows:

> Harvey Brooks and others have commented on the mismatch of the time constants of technology and politics. A substantial innovation usually requires 8 to 10 years to reach fruition. Politics has a large emotional content whose thrust changes rapidly and unpredictably. In the course of a decade we experience scores of major or minor political tempests.
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> Because of the performance record of science and technology, politicians are inclined to call on them when political problems emerge. Often, though, before substantive efforts can be made, the political climate has changed and a program that was a political asset has become a liability.
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> The vagaries of the interaction of politics with technology are illustrated by a series of events that began in 1971 and are still in process. In 1971, several factors combined to create a climate in which it seemed politically desirable for the government to foster new technological initiatives. A deteriorating balance of payment carried with it the implication that our technological supremacy had slipped. Widespread and publicized reports told of unemployment among scientists and engineers. There was a general feeling that some of the technological expertise that put men on the moon should be devoted to solving urgent domestic problems. The economy was in a slump, and means for stimulating it were being sought.

Task forces were formed, and suddenly Washington watchers were aware of the name of Magruder—Science, October 22, 1971. There was great moving in and out of Washington of distinguished scientists and engineers and talk of programs costing billions of dollars. In November and December 1971, excitement reached a peak and we were told that big things would be announced early in the following year.

Dr. Abelson said:

Somehow the promised events did not quite come off.

I entirely agree, for somehow the promises turned out to be only a stage play and came off only in the theater.

A National Journal article of October 23, 1971, by Claude E. Barfield described the auspicious plans in these terms:

The Nixon Administration is planning a radical shift of emphasis in government-supported research and development (R and D) that would for the first time make the federal government a partner in major industries outside of space and defense.

The goals of the undertaking are twofold: to apply high technology to solve social problems at home and to improve the competitive position of the United States in world markets.

Major initiatives—including tax measures and direct spending—are being considered to encourage application of technology to law enforcement, health care and housing, to control of pollution and of the weather, to detection of earthquakes and to a whole range of items in the transportation and aerospace fields.

On Sept. 9, [1971] President Nixon said that the nation should "find the means to insure that in this decade of challenge, the remarkable technology that took these Americans to the moon can also be applied to reaching our goals here on earth."

In that same article, page 2115, appears the following statement from a member of the Board of the National Science Foundation in recollection of a private meeting in which Mr. Nixon shortly after his inauguration said:

We are all facing a powerful anti-science and technology movement in American society and to some degree in the Congress. I can sell government support of science and technology to Congress and the country only if you come up with practical ideas and programs that clearly and demonstrably help the American people and the economy.

And now 2 years later and in a second Nixon administration we have a proposal from the President to abolish the National Aeronautics and Space Council, apparently on the theory that aeronautics and space activities of the agencies are now coordinated for all time. We have the resignation of Dr. David as the President's science adviser, the abolishment of the 50-person White House Office of Science and Technology and the President's 20-member Science Advisory Committee, and commensurate cuts in budget items—not the least of which is that suffered by NASA. Under that budget, NASA will absorb sharp additional personnel cuts.

A quick review of the budget plan summary shows a total appropriation for NASA of new obligational authority in fiscal year 1973 of $3,407,650,000—a good part of which was impounded—as compared to the 1974 new obligational authority in the sum of $3,016,000,000. This is a $391 million drop in new obligational authority.

The scientific community mourns the loss in program authorizations of such projects as the HEAO or High Energy Astronomy Laboratory.

One scientist, deploring the suspension of this program has likened the present period of discovery in high energy astronomy to the early observations of the optical sky after the invention of the telescope. In this climate who can say when our science and technology will be free again to discover anew?

As Dr. Abelson puts it, it reminds him of a rhyme:

The King of France and twice ten thousand men—marched up the hill and then marched back again.

I quite agree.

Science, research, and development must be viewed as a tool for solving our national problems and strengthened—not debilitated.

Problems affecting the quality of life challenge the leadership skills of mankind and require the application of the kind of scientific and technological effort, urged upon the Nation by President Kennedy and President Johnson, which resulted in the success of Apollo.

Today a new view of earth is required. Problems of land use, of deteriorating mineral and water resources, of pollution and of energy needs demand the application of new techniques and the full use of our science, research, and technology potential. We need better ways of discovering, estimating, and monitoring earth's valuable resources. Space can be used in many ways to assist directly in solving these problems. Scientific research, like research and exploration throughout history, can unlock secrets that will make a better way of life.

Knowledgeable and ardent Senator LOWELL P. WEICKER, JR., Republican, of Connecticut, a member of the Aeronautical and Space Sciences Committee for 3 years, on January 9, 1973, in a speech before the American Institute of Aeronautics and Astronautics, said:

When the Soviet Union lofted Sputnik into orbit in 1957, Americans reacted with disbelief, admiration and near-paralyzing concern. The United States, so self-assured about its primacy in science, technology and the accomplishment of the impossible, realized in cold shock that the Russians were way ahead of us. It was they who had been the visionaries—the doers. The implications were chilling. Not just in terms of national security but in terms of national spirit. The champ had become fat and flabby.

But that blinking little sphere in space galvanized this nation. It inspired the most intensive national stock-taking in history. We took a new hard look at our national priorities, at our spirit of commitment, at our educational system, at our values. And we reacted. We reacted so vigorously that in ten years, after virtually starting from scratch, we flew our first manned Apollo flight.

And now are we to cut back, lose our vision and retreat? I cannot believe that Richard Nixon, who must be first in victory in Vietnam, is willing to let this country become second in space science and technology.

Again, to quote Senator WEICKER:

In spite of how long we know it has taken to make the tremendous advances in medicine, in education, in space, we seem to be unaware of, or indifferent to, the reality of lead time required to accomplish important new landmarks for mankind.

Of all administrations that understand this concept of lead time, certainly it should be a Republican Administration drawing heavily as it does from the business community. And if anyone understands the importance of lead time, and research and development funding, it is the business community, which without such innovation and risk courts deficits and early demise.

When we concentrate only on the immediate, we are failing to plant the seeds of the programs and institutions that should be in place and running for those who come after us. It's human nature to focus on the day's problems but fortunately past American leadership has always left open a spot for solving the unknown and beating the impossible—and with no apparent justification for that moment in time.

My ancestors were pioneer stock who had the vision to open up the West. I cannot now envision that we do not have the courage and the vision to open up the world through the miracles of aeronautics and space. I fail to see the wisdom in cutting back in an area of our national concern which has such potential for our tomorrow. Are we to march up the hill—only to march back down again in the vagaries of the budget? Are we to be condemned like Sisiphous to pushing an eternal burden up the bill—always to have it roll back down again? As chairman of the Aeronautics and Space Committee, I wish to assure you that I will initiate early hearings to inquire carefully into these matters so drastically affected by the budget.

VACCINE SAFETY

Mr. RIBICOFF. Mr. President, I am announcing today that the Subcommittee on Executive Reorganization and Government Research will hold hearings this spring on the FDA's program of vaccine and blood products regulation.

During the past session of Congress, the subcommittee, together with the GAO and Dr. Anthony Morris and James Turner, raised a large number of deeply troubling issues about the safety and effectiveness of vaccines and the Government's role in assuring that American consumers are receiving the kind of protection the law provides. Among these issues were the Government's release of millions of doses of subpotent influenza vaccine; its failure to require that vaccines be proved effective in use before being released to the public; the release and failure to recall adenovirus vaccines that was contaminated with a virus that caused cancer in test animals; the failure to pay adequate attention to disturbing test findings about a number of vaccines; and, most basic, a fundamental and pervasive disregard of its responsibility to the public and ignorance of the way a regulatory agency should operate.

The emergence of these and other issues focused attention upon the relatively obscure Federal agency that had responsibility for vaccine regulation: the Division of Biologics Standards in the National Institutes of Health. For the first time in many years, the performance of this Agency was brought to the attention of the general public and the top policymakers in the Department of Health, Education, and Welfare.

Shortly after the subcommittee chairman made these problems public in a series of statements in the CONGRESSIONAL RECORD, the Department announced the resignation of the Director of DBS, effective July 1, 1972. A few weeks later, in a hearing before the subcommittee, Secretary Richardson announced that

the functions of the DBS would be transferred from the National Institutes of Health to a new Bureau of Biologics in the Food and Drug Administration.

The Bureau of Biologics has now had responsibiilty for vaccine regulation for over half a year. It is time to examine the directions in which the Bureau is headed. The problems the Bureau faces in establishing a vigorous and principled regulatory program are enormous.

The hearings the subcommittee will hold will seek to answer several basic questions about the Bureau of Biologics and its handling of its job: First, are the new leaders of the Bureau fully cognizant of scientific problems that the DBS failed to address and what are they doing about them? Second, what steps are being taken to make the Bureau's actual operations conform to legal requirements? Third, how is the Bureau being organized to cope with its responsibility? Fourth, what changes in basic philosophy about the role and performance of a regulatory agency do its leaders feel are necessary and how are they seeking to implement them? Fifth, are there adequate resources available to make the necessary changes in scientific and regulatory procedure? Sixth, if the problems are too numerous to be handled all at once, what areas are receiving priority treatment and why? What areas are not?

The scope of the problems in the Government's regulation of vaccines has recently been brought dramatically into focus by a case decided on November 7 by the Federal district court in Philadelphia. The case, Griffin against United States, was brought by a Philadelphia housewife who alleged that she had been permanently paralyzed from the neck down by a dose of Sabin type 3 polio vaccine. The court found that officials of the DBS had been negligent and had violated their own regulations by allowing on the market the vaccine lot that paralyzed Mrs. Griffin. It awarded the plaintiffs $2 million in damages because of DBS's negligence. This case marked the first time a plaintiff had successfully sued the Government for damages due to the negligent release of a drug.

The staff of the Subcommittee on Executive Reorganization is reviewing the voluminous record of the case. After their review is completed, they will make recommendations to the subcommittee about what further investigation may be desirable to determine the true dimensions of the problems the Bureau of Biologics must now act to correct.

I ask unanimous consent that an article by Victor Cohn that appeared in Monday's Washington Post be inserted in the RECORD at this point.

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

UNITED STATES ORDERED TO PAY POLIO VICTIM $1.7 MILLION

(By Victor Cohn)

On Oct 27, 1963, Mary Jane Griffin of Gladwyne, Pa., swallowed a cube of sugar containing a dose of Sabin Type III live-virus polio vaccine.

A month later she lay near death in a coma at Lankenau Hospital in Philadelphia, the victim of what her doctors diagnosed as serious paralytic poliomyelitis. Her life was saved but to this day she remains a largely paralyzed quadriplegic confined to bed and wheelchair, still, in the words of Federal District Court Judge Clarence C. Newcomer, the subject of "ever present and continuing agony."

In Philadelphia Tuesday Judge Newcomer made final a Nov. 7 decision ordering the United States government to pay Mrs. Griffin $1,759,946.25 and her husband, Richard, $300,000 for loss of his consort and for his own fate as her caretaker.

The government is guilty, the judge decided, because of the "negligence" of the Divsion of Biologic Standards, part of the National Institutes of Health, in approving a batch of Pfizer Inc. vaccine that, instead of preventing polio, caused it in Mrs. Griffin.

It was the first time the government has been found responsible for damage caused by its release of a biological product.

INTENSE STUDY

That fact—and the massive size of the judgment and the possibility that the government might be liable in other past or future drug mishaps—are now under intense study and debate in the Departments of Justice and Health, Education and Welfare. There is argument about how to respond even within the former Division of Biologic Standards or DBS, now the Bureau of Biologics.

Whether or not the government should appeal is part of the uncertainty. An appellate court might overturn the case on any of several grounds FDA attorney Marc Bozeman explained yesterday. On the other hand, he said, a judge on other grounds might "affirm it in language that is considerably stronger and broader," making the possible application far wider.

Sen. Abraham A. Ribicoff (D-Conn.) calls the case an important one in revealing "the true dimensions" of problems that the Bureau of Biologics still must correct.

The agency was transferred to the Food and Drug Administration last year as the result of Congressional and other criticism of its vaccine testing competence.

James S. Turner, former Ralph Nader associate now head of Consumer Action for Improved Food and Drugs, told a scientific conference at the New York Academy of Sciences this month that "if this decision holds up, everyone in the government had better be on notice that the government is liable as regulator."

Consumers and Congress, he added, will have to watch the federal drug regulators more closely than ever to see that they do not lower their standards to try to escape future suits. There is already some evidence, he said, that "some regulators are considering just this course."

"I don't think that should be an agency decision," Turner said. "I think it should be a broad social decision," publicly debated.

The allegations of DBS "negligence" was strongly denied at the trial by by Dr. Albert Sabin himself. The developer of the oral polio vaccine that was approved by the government in 1962, he says "it was never proved" that Mrs. Griffin had polio, and that she probably had another obscure nerve disease; that in any case her disease could not have been caused by his Type III vaccine; that DBS erred in writing regulations that failed to leave room for normal biologic variation of any medicinal substance; and that charges that his vaccine has ever produced polio or paralysis are also unproved.

"I do not know of any evidence," he says, "for a single case."

Many polio specialists disagree. No drug or vaccine, they maintain, has ever proved completely safe.

Smallpox vaccine causes approximately one death per million doses. This is one of the reasons health officials have recommended that it no longer be given routinely, except to persons traveling to places of high risk.

The Salk polio vaccine virtually ended epidemic polio in parts of the United States where it was adequately used. But batches made by Cutter Laboratories of Berkeley, Calif., caused 11 deaths and 204 polio cases in 1955 before the government tightened production and inspection standards.

Salk-type killed-virus vaccines have caused no such problems since. But federal and world health officials overwhelmingly decided that an oral modified live-virus vaccine might confer longer-lasting protection, and that it would be easier to reach large populations with a few spoonfuls of liquid—the form in which Sabin vaccine is given today—than with four Salk injections over a period of months.

Sabin vaccine today is given to most of the four million infants born in the United States each year—in three doses containing modified forms of the three known types of polio virus. A booster is recommended on entering school.

Dr. Bruce Dull of the U.S. Communicable Disease Center in Atlanta. "The most recent information we have," he said, "is that between 1962 and 1970 there were nine cases of oral vaccine-associated polio in vaccine recipients, or about one case in each 10 to 11 million doses. There were another 21 cases in family and other contacts, or about two more cases for each 10 million doses."

NOT RECOMMENDED

But the oral vaccine is not recommended today for anyone over high school age. For the "tamed" or modified Type III polio virus, according to widely held theory, sometimes reverts to virulence in the intestinal tract.

And if the patient is an older adolescent or adult the chances are far greater that the disease will be serious.

Again, Dr. Sabin disagrees with this whole line of reasoning. In the opinion of most federal vaccine advisers, however, such cases began to occur almost as soon as the oral polio vaccine was first used. In September 1962 a surgeon general's advisory committee recommended that Type III vaccine be given only through school age, except for those at high risk.

Pfizer, disagreeing—said Avram Alder and Stanley Kops, the Griffins' attorneys—"told DBS that unless the caveat . . . relating to adults was modified," it would stop making the vaccine. In December 1962 the surgeon general's committee re-endorsed vaccination for all age groups—after sharp debate and a 6-to-4 vote.

MASS DRIVE

In 1963 the medical societies of the Philadelphia-Camden, N.J., area sponsored a mass oral vaccine drive for persons of all ages Mary Jane Griffin was then 41. "The sugar cube which Mrs. Griffin ingested," said her lawyers, "bore no printing which delineated the risk that she undertook . . . Mrs. Griffin as an ultimate consumer deserved better."

The nub of the case, however, was the allegation that DBS officials failed even further. "By the time Lot 56"—the apparently guilty Pfizer batch of vaccine—"was released," found Judge Newcomer, "DBS knew" that Type III could be unstable "and knew that the test results of the laboratories of the drug manufacturers could not be trusted," and it had to rely on its own tests.

Instead, he said, DBS underrated its own tests in monkeys, giving their result a far more optimistic reading that DBS regulations clearly required. Lot 56, said the judge, "was released basically either because the personnel of DBS charged with enforcing the regulation failed to read (it) carefully, or because they did not understand or failed to take seriously the strict duty imposed upon them . . . Either circumstance constitutes negligence."

When Judge Newcomer issued his Nov. 7 decision, he said that his more than $2 million judgment to Mary Jane and Richard

Griffin might be reduced in light of the fact that Mrs. Griffin had already received an undisclosed amount in a suit against Pfizer. That sum has been reputed to be between $300,000 and $400,000.

Tuesday the judge ruled that according to Pennsylvania law and the facts of the case, the full amount would stand.

The government now has two months in which to decide whether or not to appeal.

TRIBUTE TO SECRETARY MEL LAIRD

Mr. SCOTT of Pennsylvania. Mr. President, as he relinquishes the awesome responsibilities of the Office of Secretary of Defense, Mel Laird leaves a remarkable legacy to every military and civilian member of the Defense Establishment, and in a larger sense to every American who cherishes freedom. This legacy, conceived from his strong concern for people and peace, is a tribute to his dedication and resolve. Those things he set out to accomplish 4 years ago, he has accomplished. History will accord him his proper place among his predecessors—he will be recorded as an exceptional Secretary of Defense—he will be remembered as a compassionate man whose first interest was people.

Mr. President, permit me to touch briefly on some of those tangible aspects of his legacy Mel Laird is leaving our Nation:

His human goals program is a model to be emulated by every other Federal agency. Because of this program, there is no other sector of our society today which has the equality of opportunity and dignity for all, enjoyed by our service men and women.

Vietnamization is a reality. Secretary Laird's program has made possible the end of U.S. involvement in Vietnam while, at the same time accomplished a successful negotiation. During his stewardship Secretary Laird has brought home over half a million men from Vietnam.

In implementing the Nixon doctrine and the strategy of realistic deterrence, Secretary Laird has moved us toward a concept whereby our allies provide the cops on their own beats. By providing adequate security assistance to these Allies to assist them in policing their own beats, Secretary Laird has been able to reduce military manpower worldwide by over one million—a reduction of over 600,000 in the Pacific alone.

Mr. President, while his prime concern was for people, one of the significant changes Secretary Laird inaugurated pertains to hardware—to weapons system acquisition. He replaced the bankrupt total package procurement practice with fly-before-you-buy procedures and broad use of prototyping and contract milestones.

For the first time, a Secretary of Defense has had the foresight and courage to utilize total force planning, whereby all our resources are most effectively employed to provide us maximum security.

Mr. President, in closing, I would be remiss if I failed to mention the favorable, no, excellent, relationship Secretary Laird has maintained with the Congress. Whether this stems from his nine terms as a colleague in the House of Representatives or from his deep conviction that the Congress is a coequal branch of Government, the fact is that he has done his homework, he has placed the problems of national defense above partisan politics and has provided us a vast amount of information. In sum, he has been responsive and extremely cooperative.

Mr. President, we in the Congress will miss Mel Laird in the Pentagon. I wish him Godspeed and every future success.

CONGRESSIONAL LEADERSHIP IN REVISION OF 1973 TAX GUIDE FOR SMALL BUSINESS

Mr. BIBLE. Mr. President, on January 2, the Internal Revenue Service announced that the 1973 edition of the "Tax Guide for Small Business"—publication 334—became available to the general public.

Those receiving this year's guide will notice that it has a new look. The changed appearance results from the initiative of the Select Committee on Small Business in conducting, in cooperation with the Internal Revenue Service, a year-long, full-scale revision of the tax guide, the first since its publication in 1956.

In that year, our committee and the Internal Revenue Service prepared this booklet as an aid to new and small businesses which may be unfamiliar with tax law and may, therefore, have particular difficulties in discovering the requirements and forms with which they must comply. This booklet was published by the Senate as a small business committee print in 1956.

By 1972, the tax guide had grown in circulation to more than 456,000 copies in that year alone. There are now a total of 12 million enterprises of all kinds in the country, 97½ percent of which are small business. It is clear that the small business tax guide is being seen and used by a significant proportion of them. The guide also, customarily, returns a profit to the U.S. Treasury; $172,000 in 1971.

The following members of the organizations listed below participated in the revision of the tax guide during the past year:

American Bar Association, section on taxation, Lawrence Gray, Esq.;

American Bar Association, small business committe, Charles Noone, Esq.;

Federal Bar Association, committee on taxation, John Yurow, Esq., and George Leibowitz;

American Institute of Certified Public Accountants, Joel Forster, CPA, and Mike Mintz, CPA;

National Association of Small Business Investment Companies, Charles Noone, Esq.;

National Small Business Association, John Mendenhall, CPA;

Smaller Business Association of New England, Richard Glennon, CPA;

Small Business Administration, Thomas V. Bryant, chief counsel for economic development;

Internal Revenue Service, William Hagemann, Chief, Technical Publications Branch, together with Dean Ludeman, Chief, Taxpayer Publications Branch, and W. L. Rogers, tax law specialist.

Their work spanned a series of meetings, to which were submitted the results of examination and an analysis of the guide's contents by the participants, and in several instances, ad hoc committees were called upon to review the publication. The time and expertise devoted by these persons as a public service, and the graciousness of the associations concerned in allowing participation by these recognized experts in their individual capacities made such a major project possible. In my opinion, these factors also made it quite successful.

For the information of my distinguished colleagues and their many small business constituents, I might list several improvements in the 1973 tax guide which are attributable to the revision:

First. Increased emphasis upon reaction and comments to the contents of the guide by its users. This was accomplished in two ways: More prominence was given to the Internal Revenue Commissioner's invitation to offer comments and suggestions; and inclusion, for the first time, of a brief questionnaire which can be torn out and returned to IRS.

Responses to the simple questions can help all concerned by informing IRS of the types of people using the guide and what their real needs are.

I hope that the small business organizations concerned can take advantage of the opportunity presented by this questionnaire to gain a wider reaction to the usefulness of the tax guide for their members across the Nation. A good sampling of opinion from the small business community could serve as a prelude to making the publication even more responsive to their requirements in the future.

Second. Recognition of the guide as the official position of the U.S. Government. The 1973 tax guide bears a note on its inside cover that the guide "reflects the official interpretation by the IRS of the tax laws." It explains that certain courts have taken positions more favorable to the taxpayer; and further that taxpayers have appellate rights within the IRS and that they may appeal to the courts in cases of disagreement. I feel that this is a significant step forward in defining the relative positions of the taxpayer and the service in what is, after all, our common enterprise of providing financial support for the governing of the United States.

Third. Expansion of the table of contents to a full page. This has permitted a complete listing of major subject matter headings which are found throughout the guide.

Fourth. Incorporation of an edge index for easier reference. This was a feature of the original 1956 edition, and has been restored in 1973.

Fifth. An extensive list of additional publications and an order blank by which these reference works may be obtained. This should be of great informational value for the aprpoximately one-fourth million new businesses which are created each year. It should also improve access by new and small firms to the wealth of materials prepared by the Internal Revenue Service to facilitate tax compliance.

Sixth. Inclusion of a checklist of commonly used forms. Provision is also made for ordering applicable forms which should be an outstanding convenience to small businesses and their legal and accounting advisers.

Seventh. Illustration of filled-out tax forms in the guide have been broadened to include those of individual proprietorships, partnerships, corporations, and subchapter S corporations.

Eighth. Several dozen technical changes, clarifications, corrections, and editing changes were made as a result of our review throughout the substantive text of the guide's eight parts and 35 chapters.

The cumulative effect of these improvements and the substantial amendments to the governing law and regulations in the past year is that the number of pages in the guide has been enlarged from 160 to 192 pages in 1973.

As a consequence of all of this labor, I believe that the tax guide for small business has been improved materially in form and content. I feel that the 1973 edition will be easier to understand and more usable to millions of small entrepreneurs in this country, as well as their professional, legal, and tax advisers.

Of particular significance also, in my judgment, is that the dialog between the Internal Revenue Service and a group of small business representatives establishes a forum for the exchange of views between the administrators of our tax system and the spokesmen for hundreds of thousands of guide users, and ultimately of the entire small business community in this country. I feel that many small business tax problems can be resolved, and others will be avoided, through periodic contacts of this kind.

I can further report to the Senate that our committee plans, early this year, to repeat the process of review of this publication. It is our intention to open participation to even a wider group of small business organizations which have the competence and interest in this area.

I would like to particularly commend the Internal Revenue Service, Mr. Hagemann mentioned above, and Commissioner Johnnie M. Walters for the fine cooperation which they have given to the committee in this matter. Their willingness to collaborate in this way with the Congress and with taxpayer representatives on this project seems to me to reflect the highest standards of professionalism in the administration of the taxing authority of this Government. Our committee looks forward to working with the Treasury and with the IRS in making this good publication even better in future years.

For information purposes, the 1973 Tax Guide for Small Business is presently available at all IRS offices, the U.S. Government Printing Office book stores, and at some post offices, at a cost of 75 cents per copy.

THE CONSUMER MOVEMENT: BATTLE FOR AN AMERICA THAT CARES AGAIN

Mr. MOSS. Mr. President, one of the highest priorities facing the Congress this year is to afford to the American consumer needed protection against unworthy goods and services.

In this connection, I am pleased to see that there will be reintroduced in the Senate this week legislation to create a Consumer Protection Agency to serve as an advocate for consumers in the deliberations of Government agencies and courts that substantially affect the interests of more than 200 million Americans. One of the sponsors of that legislation and a leading spokesman in the Senate on consumer interests, the distinguished senior Senator from Illinois (Mr. PERCY), last week addressed the Consumer Federation of America's Consumer Assembly on the reasons why he—as a former head of one of the most successful firms in this country, Bell and Howell—believes that consumer protection is not only in the interest of American business, it is best for business.

I could not agree more with my colleague when he notes that the consumer movement of today amounts to:

> . . . a cry of "Enough" to ineffective flu vaccines, rancid food, filth-laden warehouses, squalor and inhumane treatment in nursing homes, and to diseased blood used in transfusions. "Enough" to unfair property taxes, insurance inequities, and to the erosion due to inflation of the purchasing power of all consumers.

Because of the importance of Senator PERCY's keynote remarks to consumers, businessmen, and members of Congress alike, I ask unanimous consent that the full text of his statement be printed in the RECORD.

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

ADDRESS BY SENATOR CHARLES H. PERCY

I am honored that you have chosen me to keynote your 1973 Consumer Assembly. As one who wears a few battle ribbons, and several scars, from previous legislative campaigns in behalf of the consumer interest, I come before you today as an advocate, to invite you to involve yourselves in the effort to make a federal Consumer Protection Agency a reality in 1973.

But, before I begin to explain why I believe that enactment of this legislation is of vital importance to both the consumer and the businessman, I'd like to offer one Senator's observations on the larger implications of the consumer movement in the United States today.

To me, the consumer movement represents a broad public reaction against certain bureaucratic neglect and corporate disregard of the public.

It is a repudiation of misleading advertising, empty warranties and guarantees, deceptive packaging, anti-competitive conduct, unfair pricing and bait-and switch merchandising.

It is a check on sham, misrepresentation, deceit and fraud. And it is a control against monopolistic behavior by some corporations and the abuse of authority or discretion by certain agencies of government.

It is a cry of "Enough" to ineffective flu vaccines, rancid food, filth-laden warehouses, squalor and inhumane treatment in nursing homes, and to diseased blood used in transfusions. "Enough" to unfair property taxes, insurance inequities, and to the erosion due to inflation of the purchasing power of all consumers.

"Enough" to one-sided lobbying for loopholes and to secret deals that sell out the consumer.

The fight for consumer protection is a battle for quality in goods and services, for fairness in advertising and promotion, for honesty in the marketplace. In its broadest sense, I believe that the consumer movements amounts to a yearning for an improved quality of life—for an America that works again, for an America that cares again, for people, products and governmental institutions that *support* society rather than embitter it or tear it apart. It is a recognition of the need for *open* government responsive to the *needs* of the people. It is an affirmation of the interest of the many over the interest of the few, of a broader public interest over narrow special interests.

As many of you know, I spent 25 years of my life in business. I believe in the free enterprise system, and I remain deeply concerned about the vitality of legitimate, responsible businesses. What I am saying here today is entirely consistent with what I have said to my friends in the business community for the past quarter of a century. The essence of my message is simply this: What's good for the consumer *is* good for business. Most businessmen know this and build their businesses on this philosophy.

If a business is to be truly successful, it must have something to grow on. And there is no better foundation than insuring that the product or service produced is worthy of public acceptance.

There is a corollary to this, of course. And that is: If the product or service is unfit for the purpose for which it is intended, if *it* is unsafe or defective or its marketing deceptive, then those facts should be made known to the public.

Let's consider some of these unsavory facts and thoughtless business decisions by examining some case histories:

During last summer's Olympic telecast, a commercial for one company's product showed a double-edged razor blade being flexed between two fingers. As might be expected, a child in Dallas tried doing just what he saw on TV and was seriously cut. The Federal Trade Commission, which has jurisdiction, decided to do nothing. The Bureau of Product Safety within the Food and Drug Administration proudly announced that it had prevailed upon the company to "correct" the problem by including a printed message on the screen warning, "Sharp edged—don't try this at home." Now I ask you, as mothers and fathers of young children: What good is a printed warning for young children, who are good imitators but can't read?

Now, let us consider the case of the disease-bearing turtles. About 15 million turtles are sold in this country each year, most around Christmas and Easter. Approximately 280,000 children contract salmonella infections from these pets annually. As is so frequent, the buck began to pass. For years, nothing was done by industry, retailers or government, in spite of mounting evidence of cause and effect. The FDA said that its jurisdiction was questionable because the pets couldn't be eaten. The Agriculture department said that the turtles fell outside of its regulatory control because they were cold-blooded. The Fish and Wildlife Service denied itself a role by claiming that the turtles were not classified as commercial or sports fish. Even after the Child Protection and Toy Safety Act was passed in 1969, the FDA continued to look askance, presumably on the theory that turtles could hardly be called toys—even though children play with them. No one spoke for the consumer. It was not until December 18 of last year, almost 10 years after salmonella was traced to pet turtles, that the FDA finally required certification that all turtles shipped in interstate commerce be free of disease.

It was just last week that CBS-TV news reported on results of an investigation it conducted in New York City of persistent

overcharges by airline ticket offices. The study revealed that in 24 of 36 instances—two-thirds of the time—airline ticket agents overcharged the CBS investigator. In only one instance was there an undercharge. To date, the Civil Aeronautics Board has done nothing about this problem. Its only vigorous action recently has been its decision to eliminate its own Consumer Advisory Panel. No one represented the consumer.

Few issue have provoked more heated discussion in the last year than the question of busing. But, while the educational and constitutional ramifications of this issue have been closely scrutinized, almost no attention has been paid to the question of the safety of the 20 million children who ride a quarter of a milion buses to school each day. Yet, in 1971 there were 47,000 school bus accidents in this country, which claimed 150 lives and resulted in injuries to 5,600 persons.

Many of the injuries were due to weak structural design, which allowed the buses to crumble on impact; others resulted from poor seating design, which permitted the chests and heads of children to be propelled into inflexible metal bars on the tops of the seat backs; still others were caused because of low seat backs, which made it possible for children to be hurled forward over the seats into protruding steel in the front of the buses. Incredibly, the Department of Transportation has not taken even the most elementary precautions to prevent bus accidents. Although DOT regulations for automobiles require seat belts, collapsible steering columns, padded interiors and strong seat anchorages, these items are notoriously lacking on school buses.

As a final case history—and I am limited to five only by time, not by a lack of material—let us consider the lethal cribs. For the past four years, the manufacturers of several brands of baby cribs have been told by experts that the spaces between the bars of their cribs are wide enough to allow a baby to squeeze his body through them, but not his head. Because of this callous cutting of corners—obviously fewer slats mean less lumber invested in each crib—as many as 200 babies a year strangle themselves. Apprised of the danger, the chairman of one of the largest makers of cribs responded, "So what?" The FDA, with the power to remove the cribs from the market, has failed to act forcefully. In this instance, caveat emptor—let the buyer beware—literally has meant, let the children perish.

I can remember during the closing days of my reelection campaign meeting with a top-level group of heads and vice presidents of some of the major advertising firms of Chicago. We discussed the reasons underlying creation of an institutionalized voice in government for consumers. I won't deny that there weren't one or two troglodytes in the group, who wouldn't support a consumer protection agency come hell or high water. But after my talk, one of those present addressed himself to my remarks and said: "Senator Percy, I may make myself a little unpopular with some of my friends here, but I'd like you to know that some of the examples you've given barely scratch the surface. I'm embarrassed to have to say," he continued, "but there are practices in this industry and things which we are asked to do even by respectable firms which you just wouldn't believe," adding, "and government agencies have looked the other way, almost it seems as if they didn't care."

I could go on—to leaded paint that kills children, to carbon monoxide that poisons auto passengers, to clothes that flare into flame, to contaminated roasts, to chicken wings pocked with tumors. But I trust the point is clear: consumer protection legislation should have very high priority.

Yet, in spite of the abuses I have cited, I want to emphasize that I do not regard the consumer movement as an effort to discredit any person, corporation, association, or industry. It most certainly is not a rallying cry for achieving the dismemberment of an economic system that has served this country well for over 200 years.

Instead, I view consumer protection as a viable buffer against instances of corporate, industrial and governmental irresponsibility which would otherwise be permitted to go unchecked.

Moreover, it is a means of separating out those few firms which act without regard for their customers from the overwhelming majority which do. And it is unfortunately the latter whose good name and standing are stained because of the indecencies of the few.

The first—and the best—line of defense against the practices I described earlier is responsible and forthright remedial action on the part of the company or industry involved. When a corporation or industry refuses to take corrective action in the face of obvious abuse, then it is the responsibility of government to step in.

At the federal level, Congress has established regulatory agencies to provide a second line of protection for the American consumer—to pass on the wholesomeness of foods and the safety and efficacy of drugs, to approve or reject licenses, rate increases, route changes and patent applications, to assess product safety, packaging, advertising and merchandising, and to perform a great many other tasks that are taken for granted.

But in the course of years of oversight hearings on how these agencies are functioning—or not functioning—we in the Congress have determined that there are certain flaws in the regulatory apparatus which permit some abuses to persist.

Therefore, after a great deal of deliberation and research on recurring abuses, we have focused upon an approach that seems to offer the greatest prospect of success.

Our approach involves supplementing the present regulatory apparatus with a new catalyst to more responsible behavior—the proposed Consumer Protection Agency.

The new agency would not be able to grant or deny rates, routes or applications. It would not be empowered to compel action by an existing agency of government. Its first, foremost and final responsibility would be to represent the interests of consumers in those deliberations before government agencies and the courts which involve substantial consumer concern. It is a plan, so far as the consumer is concerned, where we can at last say, "The buck stops here."

In sum, the CPA would serve as a voice for consumers in situations where they previously have been voiceless. Its role would be to compile information, present relevant facts, supply testimony, rebut contrary evidence, submit briefs, conduct research and investigations, to be concerned.

As important as what the CPA would do—primarily inform and disclose—is what it would not do.

It would not decide any case before any agency or any court. It would be neither judge nor jury.

When all the excessive rhetoric that has been generated by the CPA is swept away, what remains is a comparatively tame—but vitally necessary—creature. Its scope of authority would be severely limited. And for that reason, we have permitted a breadth of jurisdiction, which would allow the CPA to deal with any agency of government likely to be making decisions of substantial concern to consumers.

The consumer's demands are relatively modest. He asks only for a free consumer choice in a competitive market, the prevention of unfair or deceptive trade practices, fair advertising, promotion and sale practices, adequate product information and warnings and protection of his legal rights and those of other consumers.

I know of no responsible corporation or business executive who would question the desirability of the consumer's goals. Yet last year, as we sought to pass a CPA bill that had the evident support of the Congress and the public, we witnessed what appeared to be a conscious effort to misrepresent the purpose of the legislation. We heard everything from cries that the CPA would be a "super-agency" to the outrageously overblown assertion that the proposed CPA constituted "the most serious threat to free enterprise and orderly government ever to be proposed in Congress."

That battle is behind us. We were ground down by filibuster in the waning days of the 92nd Congress, but we are prepared to fight the battle again. The principal sponsors of the CPA legislation, Senators Ribicoff, Javits and myself, expect to reintroduce a bill, probably next week, and to hold several days of hearings in early March.

From the initial soundings I have taken, it would appear that we will be able to expect considerably more business support for a Consumer Protection Agency this year.

We will begin the year with the endorsement and active support of a far-sighted company that had the courage to stick its neck out last year—Marcor, the parent company to Montgomery Ward and the Container Corporation of America.

I hope, and I believe, that Marcor's decision will be echoed in dozens of other executive suites this year. Companies with vision—and I believe there are many of them—will understand, as Marcor did, that corporate self-interest and the consumer interest are ultimately synonymous. Strengthening protection for the public enhances public confidence in business.

Leo Schoenhofen, chairman of Marcor, expressed this thought very well in a letter to me. He said:

"There is a growing body of opinion that sees a close correlation between the belief of numerous consumers that they don't yet have adequate protection in some important circumstances and today's less than optimum public confidence in business, the declining interest of some talented young people in business careers and other ills that currently plague the marketplace. Because we believe a fair and effective Consumer Protection Agency law would be a positive step toward correcting some of these problems and because we believe it would advance the vital cause of providing all Americans with fair and effective consumer protection, we are pleased to announce our support . . ."

Beyond an anticipated increase in business support, I believe we have another reason for optimism this year. In this Congress, I would hope we could begin consideration of the CPA legislation soon and finish early. On every prior occasion that the Senate has been permitted to express its will on this measure, it has indicated its overwhelming support. In the closing days of the 91st Congress, in December, 1970, it approved basically the same measure by a 74–4 margin, but the bill was killed in the House Rules Committee. In four tests last year, the Senate resoundingly turned back amendments designed to strip it of its essential elements, and then three times went on to vote by a substantial majority to invoke cloture against a filibuster launched by the bill's opponents. We failed to gain the necessary two-thirds votes to achieve cloture by just four votes the first time and three on the two ensuing occasions.

This year, I anticipate no filibuster because early consideration of the CPA bill will make such tactics exceedingly difficult. If we have the support of concerned citizens such as you, if you will urge not only the members of Congress but also the business leaders in your communities to actively sup-

port the legislation, then we can have prompt consideration and quick passage of the bill in 1973. And if that is the case, every consumer in America—more than 200 million of them—will be a beneficiary.

MULTIPLE SCLEROSIS

Mr. CURTIS. Mr. President, I would like to bring to the Senate's attention further recognition of our interest in moving ahead to conquer the devastating disease of multiple sclerosis—MS. I specifically call attention to an article by Linda Biser Behrens in Biomedical News which has elicited considerable interest among members of the Multiple Sclerosis Society and which I ask unanimous consent to have printed in the RECORD.

The article reports on the first recovery of virus from the brains of patients who died from the disease. We, in Congress, should especially take note of the legal difficulties regarding autopsy that deter researchers from obtaining brain material of human MS victims within a certain period of time, making progress in this field very difficult.

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

DATA OBTAINED FROM BRAINS OF VICTIMS

(By Linda Biser Behrens)

For the first time, virus has been isolated from the brains of patients who died of multiple sclerosis.

Three groups of researchers report finding viruses that appear to be in the paramyxovirus category.

Dr. Hilary Koprowski, director of the Wistar Institute at Philadelphia and coworkers were the first to isolate parainfluenza type 1 viruses from the brains of two patients who died of MS. The work was done at the University of Gottingen in the Federal Republic of Germany and although the virus is not yet properly identified, parainfluenza type 1 includes three viruses, the isolate, and two prototype viruses.

Other reports come from Dr. E. J. Field and coworkers at Newcastle General Hospital, Newcastle upon Tyne, England, who found a paramyxovirus-like agent which resembles measles virus. An Australian researcher, Dr. John Prineas, formerly of Albert Einstein College of Medicine of Yeshiva University in New York, will report his paramyxovirus find in a forthcoming issue of Science.

It remains to be proved that the newly found viruses are involved in causing MS. An infectious origin has not been established for MS, but the pursuit of virus may, in the distant future, enable researchers to link MS to an infectious agent. Possibly other viruses are involved, Dr. Koprowski notes.

Dr. Luiz Horta-Barbosa of the National Institute of Neurological Diseases and Stroke questions, is this virus cause or consequence of MS? A sick brain would harbor strange virus he adds.

Dr. Koprowski told Biomedical News of his future research plans, outlined in a grant proposal to the National Multiple Sclerosis Society. The most important points are to identify the virus within the parainfluenza group, to differentiate the virus by biochemical and other means, and to attempt to isolate further viruses.

The researchers in Germany used cell fusion and virus rescue techniques to reveal the viruses. Cells are fused into giant cells by combining MS brain cells with indicator cells from established cell lines such as CV–1 cells of African green monkey origin and human diploid cells. Then, other MS brain cells in the culture are observed for virus. The virus was observed only in cells fused with a fusion factor, the chemical lysolecithin, and was not observed in cells fused with inactivated Sendai virus that causes parainfluenza in mice. (Sendai virus is closely related to paramyxovirus but is not usually found in humans.)

Also critical to the successful isolation was the use of fresh MS brain material observed for virus within two to three hours after the death of the patient. Such fresh MS brain material is difficult to obtain, Dr. Koprowski notes, and other researchers agree.

The search for virus in MS has intensified. Dr. John L. Sever heads the group at the Infectious Disease Branch of NINDS which is screening cerebrospinal fluid of 500 MS patients to determine whether they contain elevated titers of antibody against type 1 parainfluenza virus. If they do, this will tend to further incriminate the virus. "Paraflu" antibodies are almost universally present in sera and have developed usually by age three. So that their presence in sera is not unusual but paraflu antibodies in cerebrospinal fluid would be unusual and suspicious.

Paramyxoviruses are arranged in four groups, 1, 2, 3, and 4; all cause respiratory distress and work is underway at the National Institute of Allergy and Infectious Diseases to develop parainfluenza vaccine.

ANTIBODY TITERS HIGHER

MS patients have slightly higher measles antibody titers. Measles virus is related to the paramyxovirus group.

Prior to the finding of the virus in MS, Dr. Jacob A. Brody of the Epidemiology Branch of NINDS speculated that an unknown virus related to measles could be responsible for elevated measles anibody titers.

Another virus recently found to cause demyelination of the nerve as MS does is the virus of canine distemper, which is in the measles virus group.

Distemper in dogs is a disease similar to subacute sclerosing panencephalitis (SSPE), a rare disease in children caused by measles virus.

Canine distemper is a severe respiratory disease more common in pups and older dogs, but it also occurs in wolves, foxes, racoons, ferrets, and minks. Infantile croup, a severe and dangerous respiratory disease, is frequently associated with paramyxovirus type 1.

Dr. Brody notes that MS is rare among Asians and Africans and, at least in the northern hemisphere, increases with distance from the equator. Blacks in the U.S. have a lower rate of MS than whites, but incidence of the disease in blacks is also greater in the north than in the south.

VIRUS DIFFICULT TO RECOVER

Dr. Brody thinks it is possible that the virus might be found probably transiently in cerebrospinal fluid in small amounts that would make it difficult to recover. Possibly it appears only early in the disease, he thinks.

Autopsies in the U.S. are performed immediately in cases of violent deaths, but in natural deaths, laws are strict, requiring notification of numerous relatives prior to autopsy so that too much time elapses and, as cells expire within two hours of death, viruses are lysed and there is no technique to recover them although antibodies are detectable even after material has been frozen.

NINDS projects developing five MS treatment centers with a primary objective of obtaining tissues from recently dead MS patients. Autopsy teams would be immediately available and relative consent to autopsy obtained more swiftly.

The House has passed legislation establishing a national advisory commission on MS. Prior to the virus finding, Rep. Margaret M. Heckler (R-Mass) proposed a Presidential Commission on MS, but the bill evolved to favor the committee under NIH composed of five members of NINDS and four from the interested public. Senator Harrison A. Williams, Jr. (D-N.J.) sponsors a bill to create an 11-member Presidential Commission on MS. The bill is now in the Senate Committee on Labor and Public Welfare. If it passes, the differences in the two bills will be settled in conference.

LYNDON BAINES JOHNSON

Mr. RIBICOFF. Mr. President, Lyndon Baines Johnson, the 36th President of the United States, was a strong, purposeful, determined man, as idealistic as he was often misunderstood. He felt deeply about America and the American dream of a land where all citizens enjoy equality of opportunity. Lyndon Johnson wanted more than anything else to make this Nation a better place for all our people. His accomplishments in health, education, civil rights, and poverty programs will be rated by future historians as the most far-reaching achievements for social progress in this century.

In those first few hours and days of uncertainty that followed the assassination of President John Kennedy, Lyndon Johnson moved with skill, confidence, and calm as he assumed control of the Government. He showed a steady, courageous hand to the American people and, in so doing, assured them that their Government and their Nation would persevere. For that accomplishment alone, President Johnson earned the deep and everlasting gratitude and respect of the American people. But more work awaited President Johnson than to manage the succession of executive power.

Blessed with extraordinary energy, Mr. Johnson acted with unprecedented skill in seeking to carry out the domestic policies which had been at the heart of the program John Kennedy and he had been elected on. Given impetus by the landslide election in 1964, President Johnson was able to win over heartening majorities in both Houses of Congress and amassed an historic legislative record.

Haynes Johnson of the Washington Post wrote two articles about President Johnson that say much about the former President. The articles appeared January 23 and 24, 1973.

Two Washington Post editorials about Mr. Johnson are equally interesting. The first appeared January 19, 1969, at the conclusion of the President's term; the second on January 24, 1973, 2 days after Mr. Johnson died.

James Reston of the New York Times wrote a perceptive column about President Johnson January 24, 1973.

Mr. President, I ask unanimous consent that the editorials and articles be printed in the RECORD at this point.

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

[From the New York Times, Jan. 24, 1973]

THE GLORY AND TRAGEDY OF L. B. J.

(By James Reston)

WASHINGTON, January 23.—Both the glory and the tragedy of Lyndon Johnson was that he believed utterly in the romantic tradition of America—in the Congress and the church, in that order; in Main Street and Wall Street, in the competitive state and in the welfare state—in all of it part of the time and some of it all of the time; all the

dreams and realities and myths, from Horatio Alger to Lord Keynes, no matter how contradictory.

In other words, he was a symbol of this confusing time in America—a little nearer to the old spirit of Frederick Jackson Turner's American frontier than most of his fellow countrymen, but also a little nearer to the folks who had been left behind when the frontier and battle moved to the cities.

Mr. Johnson was not only sure of the greatness and supremacy of his country but of his own ability to persuade the Congress, after the death of John Kennedy, that it must pass his civil rights bill of 1964 and his equal voting rights act of 1965, and prove that the Congress was equal to the promises of the Constitution and the Bill of Rights. These are his monuments.

In Washington, he knew every card in the deck, but in the world, he didn't. He knew very little about Vietnam. He was not very comfortable with what he called the "fancy-pants" characters in the State Department and the Foreign Service, who knew a great deal more than he did about the philosophy and escape-hatch boundaries for guerrilla warfare in Indochina, but he had a strong personal conviction.

It was simply inconceivable to him, with his belief in America's noble purposes, as he saw them, and his belief in military power, money and machines, that any big nation, let alone, as he called it, any "two-bit nation" could carry on for very long.

He was very close to General Eisenhower. When Ike was President and Mr. Johnson was the Democratic majority leader of the Senate, Mr. Johnson never opposed him on foreign affairs. We fight at home, Lyndon said, but when we go overseas, he's my President.

And yet, one of the very odd things in this tragedy of human and political relations is that President Johnson, after he got into the White House, paid little or no heed to General Eisenhower's judgment on Vietnam.

Mr. Eisenhower's views about Vietnam were well known in Washington at that time. Mr. Johnson had heard them all years before when Vice President Nixon, Secretary of State Dulles, and the chairman of the Joint Chiefs of Staff, Admiral Radford, had argued for American intervention in Vietnam during the French crisis at Dien Bien Phu.

Ike said then, what he wrote in his book later, that the political situation in Saigon was weak and confused, and that, without strong political and popular support, American intervention was unwise.

"Willingness to fight for freedom, no matter where the battle may be," Ike wrote, "has always been characteristic of our people, but the conditions then prevailing in Indochina were such as to make unilateral intervention nothing less than sheer folly."

Mr. Johnson wasn't thinking about President Eisenhower, much as he admired him, when President Kennedy was assassinated. If the evidence of his own book is accurate, he wasn't even thinking about himself. Certainly he was not concentrating on changing the whole policy. He was focusing on the death of Kennedy, on carrying on Kennedy's policies, on political loyalty, as he saw it; so he plunged deeper into the war, and it destroyed him in the end.

The journalists tried to deal with all this at the time, and even at Mr. Johnson's death, but it is beyond us. Like Kennedy and Nixon, he is a subject for a great psychological American novel.

But Mr. Johnson was different. He left a broken record, triumphant at home and tragic in Vietnam, and like most Presidents, his policies will be judged by the historians.

The difference is that Lyndon Johnson was a great talker, one of the last of the old Southern and frontier story-tellers of the age. He didn't leave the real story in his documents at the University of Texas but in the memories of his friends, companions and political adversaries in Washington.

He loved the camera. No President collected more photographs of himself and his visitors than Mr. Johnson; but the tape recorder was really the instrument he should have used. For he gave himself to his visitors, and historians will never be able to sort out the glory and the tragedy unless they manage to collect the stories, listen to the tape recorders and forget the television, which was his downfall, and somehow hear him talking endlessly about his problems, his cunning contrivances, his feeling for the Congress, his love of his country, and particularly his affection for his lovely and remarkable wife, and his hard-scrabble land in Texas.

[From the Washington Post, Jan. 24, 1973]

LYNDON BAINES JOHNSON

(By Haynes Johnson)

Perhaps the most poignant aspect of Lyndon Johnson's death is that this most public man, who was in his element when surrounded by cheering crowds, died alone, calling for help.

His wife, who had stood by him in every crisis and on whom he relied so much, was away. His daughters, grandchildren, cronies and friends whom he loved to regale with his inimitable stories were absent.

He reached for a phone in his bedroom at 3:50 p.m., we are told, and asked for the head of his Secret Service detail. The agent was in a car at the time, so another agent answered the call. Mr. Johnson asked him to come immediately to the bedroom without saying why.

When the agents arrived, they found the 36th President lying on the floor next to his bed, apparently dead.

His death came quietly, in lonely seclusion, after a stormy life played out so largely in public view.

It is that vibrant life that Washington is recalling today as Lyndon Johnson's body is borne back to the Capitol he once dominated.

While memories are fresh, and before the stories pale, let one last recollection be recorded. It is an account of the last time many of us at The Washington Post saw Lyndon Johnson.

He came to lunch that Tuesday, April 7, 1970. Nearly five hours later he left us all drained, fascinated, enthralled and full of questions that never could be answered or resolved.

Probably none of us present that day could successfully capture or reconstruct all the moods, the language, the mobile expressions or the specific points made. It was, at the least, a virtuoso performance. He was soft, sarcastic, crisp, commanding, anecdotal, colorful—and in the end confounding as always.

Lyndon Johnson was telling us his story, and speaking to his place in history. He was a salesman, and the ex-President came prepared with the goods in the form of stacks of papers marked Top Secret and Top Secret Sensitive. Over and over, he read from the various memoranda, letters and other documents to back up his positions.

In retrospect what was most memorable about his performance was not what he said about the war or other aspects of his presidency. It was the two sides of Lyndon Johnson displayed that day that made the most lasting impression.

It was a subdued, somber Lyndon Johnson who first appeared. He had only recently recovered from a stay in a San Antonio hospital, where he had been admitted suffering from chest pains, and his initial conversation was all about his health. He had aged dramatically.

"He came in a little after 12:30," Richard Harwood wrote immediately after the long luncheon, 'looking less tall, less bulky than I had remembered him. His hair was almost completely white and was growing long in the back in the old-fashioned Southern senator style, the way Mendel Rivers wears it.

"His illness showed in his face, I thought, and from the side his skin had the yellowish-gray look you find on extremely sick men. His hands were mottled with crimson splotches; there was a scab on the back of one finger and lots of freckles, all of which brought images of an old man."

Lyndon Johnson's own manner reinforced the impression. He seemed tired, withdrawn, quiet, and appeared preoccupied with problems of his health. He was on a diet of 850 calories a day, he said, and was getting back his strength gradually. There had been quite a bit of pain this time, he said. His trouble really had begun the previous spring when he was working on his ranch.

He liked to get out and take his exercise, he went on slowly. One day he was laying lengths of pipe, lifting and placing them in the mud. Suddenly he became short of breath and began to experience slight pains in his chest. He remembered stopping his work without realizing quite why.

For nearly the next hour at the luncheon, he continued in the same vein. He was the elder statesman, above partisanship.

There was none of the old remembered Johnson fire and flash, none of the earthy anecdotes about men and events, he would not comment on Richard Nixon. He preferred to speak philosophically, it seemed, to talk about the memoirs on which he was working each day, to reflect on the higher problems of the presidency (he favored a single six-year term, and he didn't think being a lame-duck President necessarily reduced a chief executive's power).

But gradually his manner and mood changed. He began talking about Vietnam, and suddenly he was more vigorous and assertive. He folded and unfolded his napkin, began leaning forward, rocking back and forth in his chair, speaking first softly and then loudly. Now he was, clearly, LBJ.

To quote Harwood's recollections—one of many we all composed that day—"As he talked he seemed to take on another appearance. The pallor and signs of sickness went away and all of a sudden you were sitting with a vigorous, commanding, strong man whose mind was so clear, so well-organized, so quick that you instantly became aware of the power of his personality, of the ability to dominate and persuade and overwhelm."

Much of what he said that day about Vietnam has since appeared in his book. But what was most fascinating was not what he said about the war and other problems, but how he said it.

LBJ was overpowering. He thumped on the table, moved back and forth vigorously, grimaced, licked his lips, gestured with his arms, slumped back into his seat, switched from a sharp to a soft story, and kept the conversation going from the moment he sat down at the dining table until hours later when his wife called The Post and sent in a note reminding him he should come home and rest.

As he reminisced, going back into his childhood and then on through his entire political career, he became more colloquial and more Texan. His Daddy used to whip him with a razor strap, he said, and "It hurt him more than it hurt me. But that's the kind of thing you have to do in a family." In a way, it was the same thing as being President: there were certain things you had to do that were unpopular, but you did them for the public benefit.

His language, and phrases, were picturesque:

"So I took a cold belly buster . . ."

"Anyone who's smart enough to pour water from a boot . . ."

"And Dick Russell said, "I've been to the duck blind with the man. I know him. I may not agree with him on everything, but he's a good man, he cares for the people, and he'll try to do what's right (referring to his plans to nominate his friend, Judge Homer Thornberry of Texas, to the Supreme Court)."

"Those Laotians can't stop anybody. They just stand around throwing water at each other . . ."

"MacArthur pinned a medal on me for heroism. It looks good on my chest"—here, he fingered the Silver Star citation in his coat lapel—"but it's a good thing they couldn't see what that flight did to my pants."

"Now, I don't want you good people to have a heart attack here at this good table eating this good food. And if any of you have heart trouble, you better take nitroglycerine now, because the first person to urge me to halt the bombing was Walt Rostow . . ."

He mentioned his wife, Lady Bird, and said, "She always knew how to handle me." Then he told how he had decided, in advance of the 1964 Democratic convention, that he was going to announce publicly that he would not be a candidate that year. But Lady Bird, he said, talked him out of it. She told him she knew he would like to leave the White House, but that he would miss being where things were happening, and where he had a chance to accomplish everything he had worked for in 30 years of politics.

But that wasn't why he should run, he said she told him. "It would make it seem as though you were running away. Your friends would hang their heads in shame, your enemies would dance and rejoice."

He recalled a story from his early days as a young Texas congressman, Elliott Roosevelt, the President's son, came to him on behalf of electrical power interests in Texas, he said. This was at a time when LBJ was fighting the power companies there.

"I always liked Elliott," he said. "He was a good boy. But they'd got to him, and so he came down there to see me and asked me to ease up on them.

"He said he had talked with his Daddy and his Daddy wanted him to tell me that he agreed. So I said, 'All right, I'll do that, Elliott. But before I do, I want you to do one thing for me. I want you to go back to your Daddy and tell him I'll do it if he wants me to, but ask him to write me a letter, in his own hand, saying what he wants, and then sign it.' Well, I could see Elliott wasn't expecting that. I'd kind of roughed him up. So he said, 'Why do you want father to write you a letter? I've already seen him, and he wants you to do this.'

"And I told him, 'Well, Elliott, it's this way: when I do what your Daddy wants and I come back to Texas they're going to run me out of the state. Now the nearest border is 150 miles away and that's over the bridge to Mexico. And I figure I can get to that bridge before they get me, and when I'm half way over, and on the Mexican side, I want to be able to turn around and stop and hold up that letter showing the signature of Franklin Delano Roosevelt so everyone can read it. Like this'."

He held up an imaginary piece of paper, relishing the role he was playing and the laughter it inspired.

LBJ was full of such performances. He acted out various roles. He mimicked people: Clark Clifford sitting up straight and dignified like this (he sat up very straight and very solemnly in his chair and folded his arms over his chest); Hubert Humphrey and HHH's reaction to the news LBJ was going to renounce the presidency in 1968: "I told him not to go off to Mexico, but I guess he didn't believe me." LBJ gave a "hee-hee-hee-hee-hee" rendition to show how silly Humphrey thought the idea.

Finally, after nearly five hours, Lady Bird's note was sent into the dining room asking him to come home. Lyndon Johnson became serious. "I want you to know," he said, "no matter how we differ about things, I feel I am at the table of friends, and I want to thank you for letting me come and visit with you."

Here he was, he went on, in the twilight of his years, among good friends. He had one more story to tell. It was one Sam Rayburn used to tell about a small Texas town.

Once, when Rayburn was just beginning as a politician, everyone important in that town had turned him down when he was looking for a place to spend the night—the banker, the newspaper editor, the judge. Finally a little old blacksmith said he would be glad to take Rayburn in for the night. Years later, after Rayburn had become famous and powerful, he came back to that town. Everyone clamored for him, the banker, the newspaper editor, the judge. They all wanted the honor of his staying with them.

No, Rayburn told each to his face, he didn't want to stay with them. But was that little old blacksmith still there. Yes, he was. Bring him to me, Rayburn commanded. When the blacksmith came, Rayburn told him: "Jeeter, I'd like to spend the night at your house if you'll have me." The blacksmith did, and kept Rayburn up all night talking. When Rayburn said he had to go to sleep, for he had a busy day ahead of him, tears welled up in the blacksmith's eyes.

"Mr. Sam, I'd just like to talk to you all night."

And that, Lyndon Baines Johnson said, was the way he felt about his friends at The Post.

There were some bitter-end Johnson critics among those of us around that dining table, but when LBJ stood up to begin shaking each person's hand to say good-bye we all spontaneously burst into applause. Some of us had tears in our eyes.

We thought we might never see his likes again. And perhaps we were right.

[From an editorial in the Washington Post, Jan. 19, 1969]

LYNDON JOHNSON'S PRESIDENCY

They have not been dull, the Johnson years, from the first crisis in Panama to Santo Domingo and South Vietnam, from the wild campaign of 1964 to the triumphs in Congress, the protests on the campus, the riots in the cities and the sudden abdication in 1968. And they have not been unproductive, in their rich yield of civil rights and social welfare legislation. More than anything, perhaps, they have been sad, in the sense that Franklin D. Roosevelt thought of Lincoln as a "sad man because he couldn't get it all at once—and nobody can."

Lyndon Johnson tried, you have to give him that. He brought more raw force and endless energy and craving for accomplishment to the office of President than anyone could ask. Where he succeeded, he succeeded big, in education and civil rights and all the rest. And while it can be said that he also failed big—by not being able to win his way in the war in his time, and by having to acknowledge such a division in the country that he could only carry on in his final year by foreswearing his candidacy for another term—not the least of his legacies to President Nixon is what he himself did to turn the war around and head it in the direction of a gradual American disengagement and a political settlement. Serious peace talking is to begin in Paris this coming week not so much because Lyndon Johnson halted the bombing of North Vietnam in October but because he stared down his generals last March and made the much more difficult decision to refuse them the massive reinforcement of American troops that they were asking for.

If this seems a somewhat negative legacy, there are more than enough that are positive. The list of legislative accomplishments runs on and on from the 1964 Civil Rights Act to rent supplements, voting rights, model cities, medicare, control of water pollution, immigration reform, job training, educational aid. And while some of this was the finishing of unfinished business, well begun before his time, some of it broke new ground.

A landmark aid to education act, for elementary and secondary schools, cracked a constitutional and political impasse over church-school relationships, and it was brought into being not by past momentum or by parliamentary manipulation, but through the innovation and sheer determination of the President. . . .

It is often said of Mr. Johnson that his trouble came from some incapacity to inspire, and thus to lead. He would say, on the contrary, that he was unjustly victimized by Easterners and intellectuals and liberals and the Kennedy people who scorned him for his regionalism and his roughness, his table manners and the twang of his voice. There is truth to both, and also irony, because the sad thing is that his origins are the best thing about him, the thing he has going for him whenever he is himself, and he didn't know it. Or maybe he just wasn't confident enough about it.

Whatever it was, he tried to run the country in the way he ran the United States Senate and it did not work. He wheedled and cajoled and high-pressured and oversold, and seemed to be counting the legislation passed not so much for its contents as its bulk, and this wasn't what people were concerned about. They were worrying about casualty figures and about how the combat troops got to Vietnam in the first place and how they got involved in combat operations when the Secretaries of State and Defense had said they weren't supposed to; they were worrying about how it was all going to end and what it was doing to the country and whether it was worth it, and by the time the Administration got around to leveling a little more on the subject it was too late, because the confidence was gone.

This isn't the whole story by any means but it was a big part of the story of how Lyndon Johnson lost his majority: If he was, like Lincoln, a sad man, he didn't show it and he didn't let it slow him; he was forever driving. He wanted nothing more than to succeed—and he did, in many, many ways. But he wanted support for the the war and money for a bigger antipoverty effort and safety in the streets and housing for the poor and education for all our children and medical care for all of the elderly and the love and respect of all the elderly people, and it wouldn't stretch. He wanted to get it all at once and Roosevelt was right: nobody can.

[Editorial From the Washington Post, Jan. 24, 1973]

LYNDON BAINES JOHNSON

The public lifetime of Lyndon Baines Johnson spanned almost four decades. It was a period marked not just by the development of certain powerful currents in American thought, but also by an eventual reappraisal of where those currents had led. Thus, much which had been considered desirable, necessary and even holy in Mr. Johnson's political youth had fallen into disrepute by the time that he left office. "Internationalism" had come to be known as "interventionism" by many, its painful and costly effects haunting the nation in a seemingly unendable war. And the vital and generous impulses that had animated Mr. Johnson's commitment to domestic legislation from the New Deal through the Great Society had come to be seen by many as obsolete and outworn habits of mind which caused as many troubles as they cured. At the airport sendoff that January day in 1969, when Lyndon B. Johnson's homebound plane vanished into the clouds, his longtime friends and col-

leagues were left with more than an eerie feeling of the suddenness and totality with which power is relinquished in this country. The summary departure of this man who had been the larger-than-life center of ambition and authority in government for five years, also seemed symbolically to end a self-contained chapter in the nation's political development.

It was an era characterized both domestically and in foreign policy terms by an assumption of responsibility—national responsibility—for the welfare of the poor, the rights of the mistreated, the fairness of the way in which we distribute our wealth and the general well-being and stability of countries all over the world. Of Mr. Johnson's participation in all this—as a Congressman, Senator, Vice President and President—it must be said that his impact was so profound that there is hardly a case in which the nation was either blessed or victimized by this particular 20th century passion for responsibility for which Lyndon Johnson himself was not largely responsible. Like indifferent lovers of fractious offspring, a nation can often take things for granted or seem only to notice when it has been wronged. The death of Mr. Johnson may serve momentarily to pull us back from these perspectives, to remind us that much which we now expect from our government and our society as a matter of course—black voting rights, care for our elderly and our ill—came to us very recently and largely by courtesy of Lyndon Johnson.

The simple, inescapable fact is that he cared—and that it showed. Being in all ways larger than life-sized, he cared about a lot of things; his own political fortunes, his image, and his place in history for of course he was vain. But he was consistent; all of his appetites were king-sized. So he cared about people with the same enormous intensity. In fact, a fair case can be made that one set of appetites fed on the other; he struggled and wheedled and hammered and cajoled for political power because he yearned powerfully to do great and good things and that is what he wanted the power for.

This was at once the strength and the weakness of Lyndon Johnson, for while this tremendous force was more often than not irresistible over the years, both as Senate Majority Leader and President, it was, like everything about the man, very often excessive. It could bend the political process to his will, and to good effect. But it could also bear down too hard, so that the system cracked under his weight. A master at the instrumentality of events, he could use a Selma or an assassination to lever a civil rights law or a gun control bill through Congress. But he could also use a minor gunboat skirmish in the Gulf of Tonkin to produce a resolution from Congress giving overwhelming support to a war effort whose true nature was never revealed in terms which could be expected to prepare either the Congress or the public for the sacrifice that both would later be expected to accept.

Neither Lyndon Johnson's memory nor his place in history, we would hope, is going to turn entirely, or even primarily on the war that grew out of that resolution; for Vietnam there is blame enough for all concerned, over four administrations and a good number of Congresses. Confined and carried along by earlier commitments, counselled by the men recruited by his predecessors, unchecked by Congress, Mr. Johnson plunged on, overstating, over-promising, over-hoping, over-reaching. But if his time in office marked the big Vietnam escalation, it also will be remembered for the fact that he, by implication and by painfully difficult decision, moved toward the end of his term to acknowledge a great miscalculation—widely shared in, let it be said—which is not something incumbent Presidents are given to doing. Reluctantly, grudgingly, but effectively, he turned the war effort around, abandoning "graduated response" as the method of choice, and bequeathed to his successor a greater opportunity than he himself inherited to move toward disengagement and a re-definition of the mission in realistic terms.

When Harry Truman died a few weeks ago at the age of 88, he died the beneficiary of a gift Lyndon Johnson was not to receive: 20 years had passed since the embattled and much maligned Mr. Truman had held office so that time and change and hindsight vastly altered the view people had of him. Mr. Johnson was never lucky in this regard. His each and every achievement from his Senate years on seemed to be followed or accompanied by some series of events that spoiled the glory of the moment. Still, we do not share the notion, now being advanced (sometimes with bitterness) of how unfair it was that he rarely received the recognition he deserved in his lifetime for the good and also great things he did—or that the criticism of his handling of the war unfairly overshadowed all the rest. He would, we suspect, have a wryly humorous view of all this—much as he craved to be well-loved and well-remembered—because he was too shrewd, not to say cynical a student of human and political nature not to have been amused by these efforts by those who served him badly from time to time to revise the record in his (and their) favor. Lyndon Johnson must have known that he did not need to be helped into history.

[From the Washington Post, Jan. 23, 1973]

JOHNSON PERSONIFIED A NATION'S TRAUMA

(By Haynes Johnson)

Lyndon Johnson once said he didn't want everyone to love him, as his enemies often said, he merely wanted them to like him. It was part of his tragedy that he wound up being reviled as no leader since Lincoln. No President ever fell so swiftly from so high a pinnacle.

There had been a time, in the mid 1960s, when history seemed to have set Lyndon Johnson on a different course. He had won what was up to that time the greatest political victory in American history. All the old problems on the American agenda—race and regionalism, poverty and public education, medical care and housing—suddenly seemed capable of resolution. The country was united. Blacks and whites joined hands and marched together. There were no riots, no rancor, no revolution, no dissenters. If it was not a Great Society that was being fashioned, in the typically grandiloquent Johnson phrase, at least it promised to be a better one. It was, the wise men said, the beginning of the Johnson Era. They found a good omen in a Southerner leading the nation toward a new day of reconciliation.

Mr. Johnson himself had pronounced the theme. "Come," he said, borrowing from the Bible and the Book of Isaiah, "let us reason together."

When he left office only a few short years later the nation had been cleft in two. Lyndon Johnson, the conciliator, the man of consensus, the compleat politician, presided over a nation more deeply divided than at any time since the Civil War. At home, there were riots and the beginnings of a revolution in the streets. Abroad, America was embroiled in the most unpopular war in her history. And Mr. Johnson, a man who craved affection and attention, was unable to travel freely in his country without hearing the chant, "Hey, hey, LBJ, how many kids did you kill today?"

Mr. Johnson personified the national trauma. He was blamed as both architect and executioner of tragedy. Some Negroes, whose cause he espoused more vigorously than any other President, felt he had abandoned them. The South, from whose soil he sprung, rejected him. The students, whose hearts he wanted more than any group, turned on him as a Judas who took them into "Johnson's war." The conservatives found him too radical, too spendthrift, the liberals too easily diverted from domestic priorities, too quick to pervert what they presumed to be the ideals of John F. Kennedy.

CERTAIN DISADVANTAGES

From hardly a corner of the country was there a kind word for him.

Had he been a Kennedy he might have chosen a line from Shakespeare to express his lament. Lyndon Johnson's response came out of a different milieu.

He blustered, he bellowed, he lashed out at all whom he felt had let him down along the way. The press. The politicians. The Negroes. The South. The Democrats. The American people themselves. Then, in a softer tone, he expressed a different thought.

It was always clear to him, he said after leaving office, that he had "certain disadvantages" that affected his ability to lead the nation: his upbringing, his limited educational advantages, his place of birth, his accent and "the prejudices that exist." He had, he said, a general inability to stimulate, inspire and unite all the people of the country, which I think is an essential function of the presidency."

Lyndon Johnson added:

"Now I have never believed that I was the man to do that particular job."

And again:

"I always felt that every job that I had was really too big for me."

As he should have expected, those remarks brought further abuse. To the end, he was not believed.

CONTRADICTORY, COMPLEX, CONFOUNDING

Lyndon Johnson, in the popular picture, partly self-drawn, partly cruel caricature, was a monumental egotist with an unbridled passion for power and place. Yet it is also possible to believe he was something else—a man of massive talent, and equally massive insecurities. Looking back on it now, everything he did seemed to fit the pattern.

Lyndon Johnson didn't want just a good society, in the term cast by Walter Lippmann in the 1930's; he wanted a *great* society. He did not want to equal his mentor, Franklin Roosevelt; he wanted to eclipse him. He didn't want just to help rebuild Southeast Asia; he wanted to transform it into a grander Europe.

He was contradictory, complex, confounding. He could be cruel and vindictive, kind, and thoughtful. He could weep in public—and did on the day Roosevelt died. He could be vulgar, petty, scheming, conspiratorial—and compassionate and generous. No one who saw him close up could ever forget him.

Every politician wears many faces, probably none more than LBJ. The very initials were so much a mark of the man. The LBJ Ranch. Lady Bird Johnson, Lynda Bird Johnson, Luci Baines Johnson. He even named one of his dogs Little Beagle Johnson.

It was proof, if any more were needed, that the man needed to leave his mark. Some saw it as a sinister manifestation of a deeper psychological problem: He was so vainglorious, so absorbed in himself, it was said, that he could not distinguish issues clearly. Everything came through colored by the complexities of his personality.

Perhaps. Certainly, he was memorable—and bewildering.

CONTRASTING STYLES

That first impression, somewhere in the 1950s, remains indelible. It was a political rally in Washington, dreary in its way, as they all are. All the war horses of the Democrats had turned out: Harry Truman, the former President: Sam Rayburn, "Mister Sam," tough, balding, flinty, somewhat inscrutable Speaker of the House; Averell Harriman, the ambassador who wanted to be-

come President. There were others who wanted to be President, senators all of them—Hubert Humphrey of Minnesota, Stuart Symington of Missouri, John Kennedy of Massachusetts. Then there was LBJ.

He took the podium, leaned forward, and launched into a loud, stem-winding stump speech. He flailed his arms. He pounded the lectern. He shouted until he was hoarse. He leaned forward to watch the crowd. You could see the veins bulging out on his neck. No one was surprised; that was the way the rangy majority leader regaled the faithful in Texas.

Years later, another Johnson and another speech. It was his first address to Congress as President. Soft, subdued, almost soulful. Seeing him, it seemed impossible to remember him as ever being anything other than the quiet, fatherly figure he presented that day.

Throughout his presidency those same mercurial glimpses could be seen. They were illuminating flashes between the private Johnson and the public one.

His first trip as President was one of those moments. For months after the Kennedy assassination Mr. Johnson had remained in the White House, waiting out the transition period between mourning and action. Then, in the early spring of 1964, he took to the country.

He was a force unleased. Restless, searching, he charged into crowds, grasping hands and beaming at the squeals and screams his presence elicited while his Secret Service men stood by in despair. He moved across the land, from town to city to state, declaring war on poverty and promising to banish it from the nation. Finally, late in the day his helicopter arrived in Inez, Ky., a hamlet tucked away in the Appalachians.

By then, his wife was exhausted. She sat in the car, holding a bouquet of roses, grateful for a moment's respite while her husband charged through the crowds. As he walked forward, shaking hands left and right, he noticed his wife wasn't at his side.

"Where's Bird?" he said in a low tone to a Secret Service agent at his side.

"She's behind us in the limousine, Mr. President."

"Tell her to get out here and walk with me," the President said, still in the same low tone, still moving forward shaking hands.

"She's very tired, Mr. President," the agent began.

"Get Bird out here and tell her I want her to walk with me," the President snapped.

Minutes later, his wife joined him, smiling faintly, still carrying her roses.

Lyndon Johnson could be that way.

He also could humiliate some of his closest aides. More than once in the presence of reporters or others in his Oval Office he ridiculed such men as Jack Valenti, his self-effacing assistant.

TEXAS HYPERBOLE

Some of those sessions with Mr. Johnson created other lasting impressions. There was the press briefing immediately following the establishment of order in Santo Domingo. Mr. Johnson had dispatched American forces in great numbers to put down what he said was a Communist threat to that small Caribbean island in May, 1965. In the process, he came under sharp criticism for his motives and his actions.

Before the television cameras, he was measured and judicious. In his own office, with no cameras and only reporters present, he was something else.

He snapped his fingers in reporter's faces, his eyes flashing. He pulled what he said were classified documents from his pockets, and read snatches of them to prove his point. He pounded the desk. He was bellicose. He said things that later proved to be untrue. (It was a case, his aides always explained, of his penchant for "Texas hyperbole.")

It was also a foretaste of later actions that were to have more serious consequences. Mr. Johnson, under criticism, reacted with increasing defensiveness. He seemed unable to accept criticism. Privately, and sometimes publicly, he made disparaging remarks about those who opposed him, including some who had been his respected colleagues for years. In time, he lost some of his most valuable counselors and supporters.

As the Vietnam war turned into something no one wanted, a true land war in Asia, and as dissent began to rise at home about American priorities and actions, Mr. Johnson reacted with more and more truculence.

It's only a matter of speculation, but many a veteran LBJ observer in Washington came to believe that part of the seeds of Mr. Johnson's final fall were sown in the 1964 campaign. It was seductive. He won so great a victory—even greater than the Roosevelt landslide of 1936—that few men would have been able to keep a perspective about their place in the public heart.

Whatever the analysis, one thing was clear. The American people were not following their President. A substantial portion of the public turned on him with a vehemence beyond recollection. An overwhelming majority wanted a change. In 1968, in that most confounding and devastating year in our political history they go it.

MAINTAINED HIS HOLD

To the end, Mr. Johnson maintained his hold, if not his power, over the American people. In the most surprising development of that political year, he announced he was withdrawing from consideration as a presidential candidate. His stunning "I shall not seek and I will not accept" his party's nomination signaled the finish to his presidency. Before he left office, he set in motion the process of disengagement and ultimate withdrawal from Vietnam that was pursued by his successor, Richard Nixon.

Of Lyndon Johnson it can be said that he was a victim of himself—of his excesses, of his flamboyance, of his manner and style, of his penchant for secrecy and manipulation. The public believed him to be a Machiavellian politician, the master of the deal, the biggest political operator of them all.

Yet in a larger sense he was also a victim of circumstances over which he had no control—of the aura of the assassinated young and elegant President, of the resentment of those who were left waiting for the next Kennedy restoration, of prejudice toward Southerners, of the policies of the past that he did not fashion.

History may judge him differently, and more kindly. At the least, he will be regarded as one of the most tragic Presidents.

It may well be that his finest moment came in that time of national tragedy as he assumed the presidency. When the nation was shocked, uncertain, and fearful after John F. Kennedy's assassination, Lyndon Johnson was cool, assured, capable. He provided a steady hand as he carried out the difficult process of picking up the threads of government. The way in which he gathered together the various elements was reassuring. He was a model of stability.

Mr. Johnson also showed a personal brand of courage then. On that November day when John F. Kennedy was buried on the slopes of Arlington amid a gathering of kings, princes and prime ministers, the President's Secret Service agents urged him not to march in the public procession. They were afraid of another mad assassin's attempt. Mr. Johnson brushed the security arguments aside.

"I would rather lose my life than be afraid to risk it," he said.

He walked at the head of the procession from the White House to St. Matthew's Cathedral.

A FEELING FOR PROBLEMS

Mr. Johnson, in those early days, led a united nation. Within two years, he was facing the personal attacks that increased in emotion and venom for the remainder of his presidency.

For all the bitterness his presence engendered, for all the anger and outrage that swirled around his time in office, it was easy to overlook other traits in the man. He was, as it was said, melodramatic; in the sneering term, he was a cornball. But he did have a feeling for American problems, for poverty, for problems of the disinherited and disadvantaged, for those who never knew the comforts of society or advantages of a fine education.

During his presidential campaign, he used to draw rude snickers from some when he would say, in his flagrant manner, that he knew something about poverty. He knew what it was to shine shoes and work for a dollar a day. He knew what it was to be hungry.

It seemed incongruous. The big Texan, strong, powerful. a multi-millionaire who lived at the peak and created the image of some potentate of old, surrounded by servants (and some thought sycophants), was anything but a man out of poverty. But he was.

Lyndon Johnson had come up the hard way. He did know what it meant to be poor and hungry. The hill country of Texas left its lasting stamp. It was desolate, barren country, a place of rocks and hills and scrub grass and small, gnarled trees, not rich ranch country.

Johnson City, in the valley of the Pedernales River, was a small, sleepy, impoverished town. A few buildings, a few stores, a bank, a barber shop—that was all. Dusty and drab.

By the time he was 15, Lyndon Johnson began working for a road gang at a dollar a day. His biographers—the real biographers, not the pamphleteers and propagandists who wrote such one-sided accounts of him—have one intriguing period of his life to unravel. When he was still in his teens, Lyndon Johnson took to the highways.

EVENTS THAT SHAPED HIM

His formal campaign material only noted that he worked his way west to California by taking odd jobs. He was an elevator operator, a car washer, a handyman in a cafe. Then he worked his way back to Texas. What happened to him on those journeys, what experiences colored his outlook, no one knows. He finally decided, though, as he once recalled, "that there was something to this idea of higher education"; then he hitchhiked to San Marcos, Tex., enrolled in Southwest State Teachers College and became a student.

He continued to work his way through school—as janitor at the school, door-to-door hosiery salesman, secretary to the college president.

Even so, he was forced to drop out of school for a year because he didn't have enough money to pay his tuition.

Those events shaped Lyndon Johnson in ways that were little understood, or appreciated, later when he became the quintessence of the powerful politician.

Although his critics belittled his style, his accent, his fragrant and folksy expressions (we were going to "nail the coonskin to the wall" in Vietnam, he said; "Get on your horses and get me a plan!" he recalled saying to his Secretary of State, Lyndon Johnson was more than a bombastic Texas stereotype. He sensed personal problems, understood and tried to alleviate them.

AN AMERICAN PRIMITIVE

By the time his moment on the stage was passing, Mr. Johnson bore the marks of the tumultuous period. He was older, slower, grayer, more subdued. That expressively mobile face, all long lines and creases, wore a somber expression. Later, he would reminisce in a melancholy vein about the ordeal of the presidency—and particularly his personal ordeal over Vietnam.

"The real horror was to be sleeping soundly about 3:30 or 4 or 5 o'clock in the morning and have the telephone ring and the operator say, 'Sorry to wake you, Mr. President.' There's just a second between the time the operator got Mr. (Walt) Rostow in the Situation Room, or Mr. (McGeorge) Bundy in the Situation Room, or maybe Secretary (Dean) Rusk or Secretary (Robert) McNamara, or Secretary (Clark) Clifford.

"And we went through the horrors of hell that 30 seconds or minute or two minutes. Had we hit a Russian ship? Had an accident occurred? We have another Pueblo? Some one made a mistake—were we at war?"

That was part of Mr. Johnson's problem—and part, at least, was of his own making. Not all of the other problems could be laid at his feet.

It was his fate to preside at a time when the old values were changing, when new forces were rising, when society and government were under severe challenge. It was his fate, too, to preside when the old voice of the progressive or populist no longer was adequate to the moment.

He spoke as an American primitive, and left a legacy as an American original. He was both great and gross, full of promise and imperfections. He did more than the country realized or appreciated, and accomplished less than his own dreams.

In that, Lyndon Johnson was like America herself.

SENATOR McGOVERN'S ADDRESS AT ST. CATHERINE'S COLLEGE, OXFORD UNIVERSITY

Mr. ABOUREZK. Mr. President, on January 21, my senior colleague from South Dakota, Senator McGOVERN, delivered a remarkably wise and perceptive address in Oxford, England, on an issue of overriding importance to the Congress and the American people.

That description will probably come as a surprise to anyone who has relied on secondary reports of the speech. It has become a source of some controversy. But I have been encouraged in recent days by comments from people who have actually bothered to study the text, who have read it rather than reacting to a few quotes from it and the comments of a few others about it.

Some local Washington columnists and editorial writers have left the impression that Senator McGOVERN let fly with a long and bitter tirade about the recent presidential campaign, in which he is supposed to have blamed everyone but himself for the result. That reading has produced, in turn, a new round of armchair assessments of Senator McGOVERN's character and conduct, along with a generous outpouring of advice on the proper deportment for defeated presidential candidates. Even some Members of the Congress have chimed in.

So I was frankly astonished when I read the text. For it stretches things to assert that the address Senator McGOVERN delivered at Oxford was about the 1972 campaign at all. It made scant reference to that effort, and then only by way of illustrating other points.

Instead, the address was a thoughtful study of an issue which has preoccupied most of us since the first days of the session—the concentration of power in the White House, in defiance of the spirit of the Constitution and in denial of the interests of the Congress, the free press, and the American people. Senator McGOVERN examined the sources of that trend, the manner in which it has been exercised, and its acceleration in recent years. And he suggested a series of steps to reverse it.

Certainly no one would seriously claim that his experience as a presidential candidate renders Senator McGOVERN less qualified than the rest of us to comment on that issue. On the contrary, we might even conclude that his view from that vantage point gave him some special insights the rest of us may not have.

Moreover, Senator McGOVERN's track record on other great issues of the last decade should lead anyone to think long and hard before they dismiss his statement on this one. I can just see a Washington Post editorial writer or columnist back in 1963 commenting with some degree of self-assurance that this new, first-term Senator from South Dakota should leave Vietnam to the generals and the State Department, stop criticizing the American role there, and limit himself to remarks more appropriate to his station. Fortunately, both as a freshman Senator and as a defeated presidential candidate, George McGOVERN has not followed that course.

In any event, it is plain to me that in his Oxford speech, Senator McGOVERN's tone was no more blunt than that of a good many other members of the Congress, and his conclusions no stronger—although somewhat more scholarly—than you might expect to read in, say, a column by Joseph Kraft or a Washington Post editorial. I am sure that the students at Oxford found his remarks highly illuminating and entirely appropriate to their keen interest in American public affairs. And I suspect, as well, that they would be as amazed as I am by some of the reaction here in the United States.

But the text itself is the best response to misimpression or misinterpretation. For that reason, and because it is a careful and eloquent analysis of an issue of deep and growing concern to the Congress, I ask unanimous consent that the text of Senator McGOVERN's remarks be inserted at this point in the RECORD.

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

I am grateful for your generous invitation to discuss the future of American politics. Let me begin with the past in order to explain the present, and then explore the possibilities of the future.

Just why the American electorate gave the present Administration such an overwhelming mandate in November remains something of a mystery to me. I do not expect ever to find a fully satisfactory answer. I firmly believed throughout 1971 that the major hurdle to winning the Presidency was winning the Democratic nomination. I believed that any reasonable Democrat could defeat President Nixon. I now think that no one could have defeated him in 1972. And I am not certain that the Democratic Congress will hold him in check for the next four years. I am convinced that the United States is closer to one-man rule than at any time in our history—and this paradoxically by a President who is not popular.

Fundamentally, we have experienced an exhaustion of important institutions in America. Today only the Presidency is activist and strong, while other traditional centers of power are timid and depleted. This is why one man in the White House was able for so long to continue a conflict hated by so many of his countrymen.

The institution of Congress has been exhausted by Executive encroachment and legislative paralysis. For a decade, a war was waged without Congressional approval; for years, that war raged on in part due to Congressional inaction. The representatives of the people proved unwilling to end a policy opposed by the people.

But the impotence of Congress and the omnipotence of the Presidency have deeper roots and a longer history. In 1933, the Senate and the House passed Administration bills almost before they were printed or read. It was a time of crisis. But in the years since then, the Congress has acted as though the crisis were permanent. We now appear to accept the curious notion that the legislative initiative rests with the Executive branch. Indeed, students of American government are themselves surprised at the startling fact that nearly 90% of the legislation the Congress considers originates with the Administration.

And in the last generation, Presidential activism and Congressional passivity have been even more pronounced in the field of foreign policy. Congress was not asked for approval in the 1950s before the American troops were dispatched to Korea and Lebanon. The chairman of the Senate Foreign Relations Committee, who advised against the Bay of Pigs invasion, was ignored, while other members of Congress were not even consulted. The Senate was assured that the Gulf of Tonkin Resolution was no writ for a wider war; it was then used as an excuse for the widest war since 1945.

Now this tide—which has ebbed and flowed for four decades—has crested at a new high. Just before Christmas, the President, in the flush of his electoral landslide, unleashed the most barbarous bombing of the war without even forewarning the Congress. He then refused to explain it or to permit any of his subordinates to explain it—a situation which must strike you especially as strange, since not only the Foreign Secretary but the Prime Minister are regularly called to account in the House of Commons.

I only wish your government had expressed to us the moral outrage that a good friend was obligated to express against the Nixon destruction of Indochina. Thank God for the eloquent and timely words of Roy Jenkins.

The President's defense for his silence was that he was invoking the American doctrine of executive privilege, which is supposed to protect certain limited types of communication within the executive branch. The truth is that he was abusing executive privilege, which is not supposed to prevent review and the exercise of responsibility by the legislative branch.

Our Constitution, like yours, is an organic document. Although the first Americans sketched the essential outlines of government, they wisely left the embellishment of the relationship among its three branches to experience. Thus, the assignment of specific authority is only in a few instances explicit.

But among the rights clearly assigned to the Congress are the powers of war and peace and the power of the purse. The power to make or unmake war, as I have already suggested, has been stripped almost completely from the Senate and the House. And now, for the first time, the Executive has mounted a serious challenge to the Congressional control of appropriations. Perhaps the Congress invited this attack by a complacent acquiescence in the Vietnam disaster; in any case, the battle is on, and the Congress is losing.

Last fall, we submitted to the President a bill to clean up our nation's waterways. He vetoed the bill, and we passed it again over his veto. He then simply refused to spend the money as Congress directed. The success of

this tactic was followed by the impoundment of funds for other domestic programs. Most incredibly, at the end of the last legislative session the President demanded that the Congress rubberstamp such impoundments in advance. He asked us to agree to set a budgetary ceiling within which the sole power of appropriation was reserved to the executive branch. Even more incredible was the speed with which the House of Representatives approved this request, and its relatively narrow defeat in the Senate. And after Congress refused the President this authority, he just took it. One wonders why he even bothered to ask.

This is not the way of a government of laws or even of men, but of one man. Today the United States is moving dangerously in that direction. The Congress seems incapable of stopping what it opposes or securing what it seeks. It has been described by a Republican Senator as a "third or fourth rate power" in Washington. And it may be fairly asked whether the Congress of the United States in the seventh decade of this century is in peril of going the way of the House of Lords in the first decade. The difference is that the diminution of the Lords made English government more democratic, while the diminution of the Congress makes American government more dictatorial.

And the exhaustion of the Congress is matched by the exhaustion of the political parties. The Republican Party, reduced to utter vassalage by the White House, offers little more than an administrative program. They offer the politics of efficiency—but to what end and impact? Their answer to the transportation crisis is to rearrange the Department of Transportation. Their answer to desperate social needs is to reduce and rename social programs. And their answer to the threat of racism is the malignancy of benign neglect.

At the same time, the loyal opposition is neither loyal to a specific set of ideas nor effective in its opposition. The Democratic Party is in peril of becoming a party of incumbency out of power, much like the Whigs of the 19th Century—a party with no principles, no programs, living only from day to day, caring only for the prerogatives of office, doing nothing, and worse, not caring that nothing is done.

Though important and, I believe, enduring reforms have opened the Democratic party to broader citizen participation, the purposes for which it stands remain disputed and undefined. For twenty-eight of the last forty years, those purposes were set by Democratic Presidents in the White House. Today, the party consists largely of fragments and factions, often still divided along the same lines as in 1968, when pro-administration and anti-war forces contended for its soul.

At the same time, the Democratic constituency has declined; in both of the last national elections, the Democratic candidate could count only 40% of the vote. I believe the party is still the best hope and help of the unprivileged majority of Americans. Yet I know that we have failed to convey the Democratic appeal to millions who are not racist, but afraid; who do not seek a Wallace, but will settle for him if no one else seems to hear or heed them.

And what is the response of the Democratic Party? Not a determinated effort to shape a constituency for change, but an exhausted armistice with the status quo. In 1973, the party itself is no longer a challenging source of ideas and innovation in society. Indeed, in the midst of the quarrels and the contention, the safest course for party officials has been to emphasize that they are interested, not in the ideology, but in the technology of politics.

Without principles, there is no party. And a nation cannot be led nobly or even decently by a collection of politicans whose highest purpose is power.

But perhaps the most discouraging development of recent years is the exhaustion of the institution of the press.

Under constant pressure from an administration that appears to believe that the right of a free press is the right to print or say what they agree with, the media have critical reporting that is a tradition in American politics. It was not always comfortable, but it is always necessary. Yet Mr. Nixon escaped a similar scrutiny. The press never really laid a glove on him, and they seldom told the people that he was hiding or that his plans for the next four years were hidden. Six days after the Wategate gang was run to the ground, Mr. Nixon invited reporters into his office, and submitted to the only interrogation his managers allowed during the fall campaign. Not a single reporter could gather the courage to ask a question about the bugging and burglary of the Democratic National Committee. Much of this can be blamed on the incestuous character of the White House press corps itself. Ask one wrong question, and a reporter may find himself cut off altogether, thus ending this repose in one of the cushiest assignments a journalist can draw.

Now, with the election over, the executive branch has tightened the pressure on the media. For example, the administration has expressed an intention to punish offending television networks by depriving their stations of licenses. Already, the White House has dismantled the Public Broadcasting System, whose public affairs presentations the President found irritating. And the press has responded by retreating. It has catalogued the slashes in domestic programs and the plans for conservative, insensitive government—but it has not even noticed anything amiss in the fact that these steps were concealed or denied before the election. There are of course, brave reporters, newspapers, and television channels ready to take the heat; but there are countless others who have left the kitchen for a more comfortable, uncritical existence in the antechamber of this Administration. They are trying to get along by going along.

And the exhaustion of American institutions is matched by an exhaustion of the American spirit.

This even touches some liberal intellectuals, traditionally the most tireless group in America. Today you can hear such liberals saying that government cannot make any real difference for good in the lives of people—that whatever it touches will turn to failure. Many of those who supported the advances of the 1960s so fervently now denounce with equal fervor the setbacks of the 1960s. And they are reluctant to resume the imperfect but important march interrupted by the war. Instead they seem almost happy to fulfill the prophecy of W. R. Inge, the Gloomy Dean, that he who would marry the spirit of the age soon finds himself a widower. And they seem to draw a curious personal consolation from the evidence that my appeals to idealism and morality of America were rejected by the majority of Americans.

Indeed, these so-called liberals now tell us that we should not try to save our cities, cure the causes of crime, or eradicate poverty. They say that if we are part of the solution, then we are also part of the problem. Their motto appears to be: "Nothing ventured, nothing lost."

The same dispirit envelops millions of other Americans. They have followed a bloody trail of disappointment from a sunny street in Dallas to a hotel kitchen in Los Angeles. Three times they have voted for peace; at least twice, they have been given more war. They were oversold on the social experiments of the 1960s; now they are wary of buying even sensible and essential social progress from any political leader. They see government as at best an annoyance, at worst an enemy, and they wish it would just leave them alone. Broken promises have ended in broken power. Public officials are viewed principally as annoying tax collectors.

To my mind, this mood was central to the outcome of the 1972 election. For example, the commentators have suggested that credibility was among my principal difficulties during the campaign. I agree, but not with the proposition that people did not believe me. I think they did believe that I would do what I said, and they were afraid. Many Americans looked back at the debris of the last decade, and they feared that once again, they were about to face a hard effort and harvest nothing from it.

So to me the central challenge for the future of American politics is to end the paralysis of institutions and ease the apprehensions of the electorate. The United States must find a way to replace exhaustion with energy, cynicism with hope, resignation with determination, destructive anger with constructive activism.

That is so easy to say, so hard to do.

I no longer think it can be done merely by calls to greatness or appeals to idealism, no matter how eloquent. Americans have been told until they are tired of hearing it that they shall overcome, that they can move their country forward, that they can have a great society, that they can seek a newer world or find the lift of a driving dream—or even bring America home to its founding ideals. This kind of summons has value; indeed, in my view, Americans are desperately anxious to believe in a transcendent, almost mystical purpose. But they are also skeptical now of any such summons unless there are signs of progress already there.

As I discovered in the last campaign, it is not even enough to outline proposals in specific detail. The only way to reawaken faith in the system is for government and politicians to restore it step by step, through substantive advances that mean something to people. They must see their sons home from Vietnam, their neighborhood crime rate reduced, their taxes used to build better lives instead of bigger bureaucracies, their children educated in decent schools and their illnesses cared for at reasonable cost. The progress must be visible, sure and steady.

This requires above all else a determined effort to improve and strengthen the institutions in America that are supposed to serve the citizens of America. After a decade of disillusion, institutions may be unfashionable things. But institutions are not evil, they are neutral; and they are indispensable instruments of change in society. More often than not, the ebbs and tides of history are determined by the nuts and bolts of governments.

In modern times, when American liberals have recognized that truth, they have tended to see it in terms of the Presidency. Only a few years ago, liberal scholarship still celebrated the strong executive and sought to strengthen it even more. Now we have learned that the Presidency, too, is a neutral instrument that power in the White House can be abused as well as used—that a reactionary or a war maker can also read Richard Neustadt and James McGregor Burns.

Twice now our answer has been attempts to change the person in the Presidency. Both times we have ended in at least as much difficulty as we were before. It is now almost four years until the next national election. It is also time to ask whether American progressives should continue to rely on a quadrennial chance to capture what is becoming an elective dictatorship.

We may lose again as we have before. And liberty is the real loser when so much authority is vested in a single office.

There will be plenty of time to prepare for the next campaign. But now is the time for a determined effort to change, not the person in the White House, but the power of the Presidency. American liberals must reverse the forty year trend toward a stronger Presi-

dent and return to the two hundred year old tradition of shared power.

The Supreme Court is subject to fate and executive appointment, with only the Senate standing between the court and an ideological coup. So the true priority is to protect the place of the Congress in the Federal system. We must seek a pluralism of power, where Congress and the President guard and prod each other.

Some political scientists claim that this is the wrong aim. They say: "Only the President can lead because only the President has a mandate." But Congress has a constructive mandate, made by a blend and balance of the regional interests reflected in each member's election. And that constructive mandate can be as effective as the President's universal mandate. The Congress can work to check the Executive and to move the country. It can seek cooperation with the President; it can also shape a kind of cooperative tension with him that can make change happen. In the words of an ancient philosopher: "That which is in opposition is in concert, and from things that differ comes . . . harmony."

In pursuit of a pluralism of power, the Congress has powerful weapons at its disposal. And after executive provocation without peer or precedent, the legislative branch at long last seems ready to act.

Now the Congress must exert its authority to achieve a full measure of influence. For example, when the legislation that allows the President to control wages and prices comes up for renewal, the Senate and the House should not issue another blank check. We should include safeguards to assure that profits, dividends and interest rates are never again permitted a special break while the wages of workers bear the full burden.

But the Congress should not wait for such opportunities. It should mount a consistent and coherent effort, founded on its foremost power—control over appropriations. James Madison wrote in *The Federalist Paper*, number 58:

"The power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

The insight is borne out in the history of your own land. For five centuries, from Edward I to George III, English liberty was purchased piece by piece by the Parliamentary power of the purse. And in 1973, the Congressional power of the purse can sustain American liberty.

It can be used to stop the abuse of executive privilege. Part or perhaps all of an appropriation could be conditioned on the Administration's consent for the appropriate officials to testify before House and Senate Committees.

It can be used to stop executive wars by whim. The Congress must refuse to fund conflicts it has not declared or even decided to fight. From the tragedy and travail of Vietnam, the Congress at least must learn the truth of Edmund Burke's warning: "The thing you fight for is not the thing which you recover; but depreciated, sunk, wasted and consumed in the contest." American ideals have been depreciated. American wealth has been sunk. Human lievs have been wasted, and Indochina itself has been consumed in the contest. The United States must fight when the course is right. But never again should the Congress allow young American lives to be lost for the defense of a corrupt dictator anywhere in the world.

And these steps are only a beginning. For if the Congress is to assume a role of leadership, it must have not only the negative power to review and reverse policy, but also the positive power to make policy in the first place. It must know enough—so it will not hear the reply that the President always knows best. It must be structured for integrated decision making—so it will not hear the reply that only the President can pull all the pieces together.

First, the Congress should establish a unified budget assessment mechanism. The Senate and House should establish a committee to estimate revenues, set a general level of expenditures, and establish priorities to relate specific appropriation decisions to that general level. This committee should have sufficient resources of expertise and information. There is no reason to let the President control the budget because he has the only Office of Managament and Budget.

Second, the Congress should establish a similar mechanism for national security policy. With members drawn from the Appropriations, Foreign Relations and Armed Services Committees, such a unified committee could offer a thoughtful and sensible alternative to executive proposals. This committee, too, should have the necessary resources. If the President can have two State Departments, the Congress can have at least one agency to provide information and recommendations about foreign affairs and defense policy.

Third, the Congress should adjust the seniority system. No other legislative body in the Western World uses length of service as the sole standard for place and power in its committees. If the Congress is to carry out its constructive mandate, it must do what the mandate means, not what a few individuals from safe districts want. An activist, effective Congress must reflect the popular will. It cannot do so unless the members freely elect committee chairmen.

Finally, the Congress should defend its power as it extends them. It must consider and choose from a number of alternatives to cancel or control the impoundment of its appropriations. Only then can the Congress assure the execution of the policies it has enacted.

So if the Congress has the will, there is a way to exercise positive leadership. For the long term, the question is—in what direction?

I am convinced still that the society to which America should aspire is a liberal one. To those who charge that liberalism has been tried and found wanting, I answer that the failure is not in the idea, but in the course of recent history. The New Deal was ended by World War II. The New Frontier was closed by Berlin and Cuba almost before it was opened. And the Great Society lost its greatness in the jungles of Indochina.

Of course, liberal programs will sometimes fail anyway, for human decisions are frail always. Government is the creation of men and encompasses the weaknesses of men. Plans can be poorly conceived or poorly executed—though a Congress with sense and a bit of intelligence can work to prevent that. But that government is best, I believe, that best serves the demands of justice. So what Americans should seek is a system in which the principles of civil equality and individual liberty have the highest claim on statesmanship. We must strive to provide a decent standard of life for all citizens and to redistribute wealth and power so each citizen has a fair share. And along with this must come a foreign policy which puts humanity and morality ahead of Cold War myths and the prestige of leaders who would rather compound error than face reality.

And an institutional revival of the Congress not only can lead America in a new direction; it can also spark a similar institutional revival outside government.

Where power is pluralistic rather than presidential, the press will not have so much to fear from the executive branch. It could institute reforms such as the rotation of correspondents at the White House and among candidates in a national election, and the assignment of political reporters and not just "regulars" to the President during a campaign.

There are also hopeful signs of a reawakening in the Democratic Party. The Party is scheduled to hold biennial conferences to set national policy, with the first one next year.

And as Democrats look ahead to 1976, they can be encouraged by the enduring gains of 1972. For I believe my campaign set the manner in which future candidates must seek the Democratic nomination—openly, candidly, not with the traditional strategy of saying as little as possible, but with a pledge to seek and speak the truth. I believe we also set a standard for the conduct of future campaigns—which will have to reveal their contributors and represent the people rather than the politicians. And never again will Americans accept wiretapping, Watergates, and the spectacle of a candidate hiding in the White House. Instead, they will expect at least a commitment to correct wrongs rather than committing them. Finally, I believe our campaign set forth the great issues that will dominate the debate of the 1970s, ranging from tax reform to a rational military budget.

And millions of Democrats, whether they are ordinary citizens or Senators, are anxious to carry the banner. I have faith that their energy and efforts can end the exhaustion of the electorate, enlist the country in a coalition of conscience as well as self interest, and expand the 28 million votes the national ticket won in 1972 into a majority that is right as well as new.

But as I have noted, the next election is four years away. For the immediate future, the key is the Congress. It must take the initiative and provide the inspiration. It must cure the paralysis and procrastination that have earned it the doubt, the disrespect and the cynicism of the American people. The *New York Times* recently described the President as a leader who "behaves with the aloofness of a Roman emperor." It is useful to remember that no Roman emperor was crowned until the Roman Senate abdicated.

Before most of you were born, Henry Luce described this time in history as the American century. Since then, the United States has learned the hard way that you cannot colonize centuries any more than you can colonize countries. But I would still like to believe that my country has something of value to offer to a beleagured world.

It is not just our wealth and our technology—though that we should share with those who need it.

And it is not the terrible gift of another Guernica in Indochina.

And surely it is not our power to unleash a nuclear reign of terror, to give the earth a last shimmering moment of light before the endless night.

Throughout our history, America's greatest offering—as I said in accepting the Democratic presidential nomination—has been as "a witness to the world for what is noble and just in human affairs." This is what summoned the dock workers of Manchester to support Abraham Lincoln and the cause of liberty during our Civil War. And this is what America must restore. If we fail, other generations who are not free will look back and say that things cannot be any other way.

So in my mind, the challenge of the American future is to revive our institutions and resume our progress at home, while we act abroad with "a decent respect for the opinions of mankind."

MR. NIXON AND THE RUSSIANS

Mr. SCOTT of Pennsylvania. Mr. President, the distinguished British journalist, Henry Brandon, has written a provocative book on contemporary U.S. foreign policy, "Retreat of American Power." It has not as yet been published but an excerpt from it was printed in

last Sunday's New York Times Magazine, entitled "Mr. Nixon's Way With the Russians."

The article is extremely interesting and I recommend it particularly to those critics who choose to ignore the far more peaceable world we enjoy in 1973 as a result of President Nixon's foreign policies.

I ask unanimous consent that Mr. Brandon's article be printed in the RECORD.

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

NIXON'S WAY WITH THE RUSSIANS

(By Henry Brandon)

When Richard Nixon accepted his nomination at the 1968 Republican Convention in Miami and said that he would move from confrontation to negotiation with the Soviet Union, it seemed to many that this was the best promise he could make. Yet, even though some of those close to him suggested to me then that it was less close to his political instincts than to his political calculations, and even though it was one of those vague generalities that are the stuff of convention and campaign speechmaking, now, as he begins his second term, it can be said that he lived up to it more than anybody expected—most of all, perhaps, Nixon himself.

The last thing Nixon would want is to go down in history as having retreated before Russian or any other Communist power. And if anybody had impeccable anti-Communist credentials, it was Richard Nixon. He exploited them adroitly. In the 1968 Presidential compaign, for instance, he hammered home the fact that he, an avowed anti-Communist, had a better chance than any Democrat of getting the United States public to accept conciliatory moves toward Communist countries. President Johnson was uncertain in his attitude to the Russians, though he always had the notion that he would make some sort of deal with them. Dean Rusk, L.B.J.'s Secretary of State, was dovish toward Moscow, but felt hawkish toward the Government in Peking; he favored a policy of containing China in collusion with the Soviet Union. Nixon rejected this approach because he thought it would be interpreted in Asia as a racist-influenced policy, and from the start prepared for an evenhanded policy, though one based on a belief that the Russians were the more dangerous because they were more likely to take military risks. Nevertheless, his Vietnam-policy decisions risked Russian defiance.

What made some sort of rapprochement with the Soviets look more hopeful than perhaps ever before was that some time in 1970, if not earlier, the Kremlin decided that it wanted to aim at a limited amount of cooperation with the United States and with Western Europe and that it wanted to reduce tension with both. This decision was reflected in Brezhnev's speech at the Communist Party Congress in March, 1971, and set the basic direction of Soviet policy. I remember how at a dinner party at the house of Gov. Averell Harriman in June of 1971, the then Polish Ambassador Jerzy Michalowski admonished everybody present to read the Brezhnev speech carefully, for it represented a very important change in Soviet policy to which, he said, the United States should respond in a conciliatory and understanding way; otherwise, an opportunity might be missed.

He argued among other things that since the Russians had more or less achieved nuclear parity with the United States, they were now anxious to commit more of their economic resources to raising their people's standard of living, and he admitted that with the tense situation along the Sino-Soviet border there was a need to shift troops from Western Europe to the East. The problem for Nixon, who was quite willing to sound out the prospects, was now to begin. He therefore set a cautious pace and a slower one than suited the Kremlin. On his European tour he reassured America's allies that he would not negotiate with the Soviet Union behind their backs.

LINKAGE VERSUS ROULETTE

Nixon's basic strategy was to negotiate with the Russians on a broad front of problems which would be seen to be interconnected. This idea later came to be called the "linkage" principle and was defined by William Safire in his "The New Language of Politics" as "a global negotiations strategy holding that progress on one front is necessary to, or helpful to, progress on other fronts. It was expressed by Kissinger in a background briefing on Feb. 6, 1969, in which he explained that the President would like to deal with the problem of peace on the entire front on which peace was challenged and not only on nuclear arms talks, and that a reduction of tension in one area could be achieved only if it also applied to others. It was with linkage in mind that the President sounded an early alarm about the dangers in the Middle East and Berlin. He wanted to make it clear that a *détenté*, like peace itself, was indivisible.

More specifically, Nixon and Kissinger laid down, shortly after the Inauguration, a basic set of principles on handling the Russians. These were not processed through the National Security Council machinery, with the result that the council never developed a full-fledged, over-all policy paper on United States-Soviet relations, but instead continued to deal with specific problems—the Middle East, SALT, Berlin, and so on—as they came up. The Nixon-Kissinger guidelines went roughly as follows: Keep relations on an even keel, have no illusions about how much can be accomplished, and do not treat arms control as a "safety valve" (as Kissinger liked to call it) against issues fraught with danger, because it will not in itself alleviate this danger. Individual issues simply were not to be singled out; the key to a better, more stable relationship was a relaxation of tensions on all fronts. The behavioral etiquette in dealing with the Russians was to be cool, matter-of-fact, even distant. Public polemics were to be avoided, and so were negotiations that sought only to sweeten the atmosphere.

These guidelines represented a radical change, for under President Johnson the idea was that you should try to do business with Moscow whenever possible. Nixon believed that he could reach an understanding with the Russians, but since the Communists were evil, expansionist and untrustworthy, he had to insist on an *over-all* understanding, and retain the freedom of the willpower to use military force if necessary. He thought such a broad understanding could be arrived at by the United States' making concessions on SALT and Vietnam, and by the Russians' doing so on the Middle East; other issues would have to be resolved somehow by mutual compromise. The idea that a package deal could be negotiated with the Russians on the basis of the "linkage" theory became very controversial among the experts and many of them viewed it as hopelessly unrealistic, betraying ignorance of the Russian psyche.

The late Llewellyn Thompson, twice Ambassador to Moscow and one of the most respected among the experts, was one of those who dissented. Thompson contended that "linkage" to the Russians meant negotiating from strength, a phrase that went back to John Foster Dulles, one of the many devils in the wax museum of the Soviet diplomatic mind. Because they suffered from an inferiority complex, he argued, they would object to the idea and resist it.

Thompson once maintained to me that to the Russians each case for negotiation "was another throw of the roulette ball," and "every time the roulette ball spins, one has to watch how it turns and where it falls. There is no necessary connection between the throws." Thompson continued to defend the idea of simply seeking to improve the atmosphere between the two powers, because once they reciprocated, they always committed themselves a little more, assuming, however slightly, a new attitude. "It does therefore help," Thompson insisted, "to commit the Russians to a trend and direction because they lack flexibility in their propaganda, which makes it difficult for them to reverse it."

Thompson developed his view once to Kissinger in the latter's office and, as it happened, the President called on the telephone during their conversation. When he heard that Thompson was in Kissinger's office, he asked both to come and see him. Thompson then explained his views to the President and left feeling that the President had agreed with his interpretation.

Gradually, as Nixon's approach to the Russians evolved, it turned into a mixture of the Kissinger and the Thompson theories, though every time the Russians did something reasonable on one front and something unreasonable on another, the cry of "linkage" was heard from the White House, which put the Kremlin on notice that this was not the way to reach an understanding. But the mixture was inevitable and Mr. Nixon slowly recognized it. It is one of his eccentricities that he likes to appear more inflexible than he really is.

If necessary, though, he can be quite adroitly flexible, especially when the political stakes warrant it. For a long time, for instance, he was convinced that the Russians could help him to persuade Hanoi to make a settlement—which contributed to his slowness about starting the SALT talks—but in the end he recognized that Russian leverage with the North Vietamese was limited for a number of complicated reasons, and that he had better not make this the stumbling block to a new understanding with the Soviets.

FOOTHILLS OF THE SUMMIT

Kissinger, from the start, assumed supreme control over diplomatic contacts with the Russians. His first meeting with Ambassador Anatoly Dobrynin occurred in New York before President Nixon's Inauguration, and their meetings after a time became an accepted thing whenever something that could develop into a crisis had to be thrashed out. Dobrynin, a master of the diplomatic trade, quickly recognized the uneven balance of power between Kissinger and Rogers.

Seeing where the center of power really was, he lavished attention, as ought any shrewd diplomat in Washington who had the opportunity, on Kissinger. He established easy access to him and soon found out that, for quick action, this was the place to call. Dobrynin, as ambassadors go, saw perhaps more of him than most, and soon earned in Kissinger a kind of fond respect. Here were two men who could display an extraordinary amount of charm and wit, but also vie in toughness with each other. Kissinger even had him home for negotiations—and few have seen the Kissinger household from the inside—but only after an electronic sanitizing squad had made certain that the Russians had not bugged the house in advance.

Despite the Kissinger-Dobrynin compatibility, despite the prospects for improved relations between their two countries, the progression toward serious negotiations was slow, and various peripheral crises interferred with it at various times. The Russians distrusted Nixon—though at the start they were willing to forget his past and judge him on performance—not only because of his reluctance actually to begin the SALT discussions but also because of his policy in Vietnam and his provocative visit to Rumania.

His overtures to China, however, really shocked them. I was not surprised when in September of 1969, Georgy Arbatov, the perspicacious deputy director of the Moscow Institute for Soviet-American Affairs, said to me that this was a moment when the United States should try to inspire trust, not the opposite, and that the prospects of improved relations between the United States and the Soviet Union had been endangered.

But Nixon did not want to move too fast, for he was afraid Congress would otherwise have refused to approve the Safeguard legislation for a new antiballistic missile defense. He also wanted further to test the MIRV (Multiple Independent Re-entry Vehicle), which he had no intention of banning, and to give more time to the new methodical studies of the whole disarmament problem ordered by Kissinger. John F. Kennedy made the missile gap a big issue during his Presidental campaign, but once in a power he found that the situation was not so bad after all. Nixon, on the other hand, during his 1968 campaign was led to believe that the United States had a powerful advantage in missilery.

Once in office, however, he found that the situation was worse than he had been led to believe and that a serious imbalance in the missile field could develop in a half-dozen years. President Johnson had decided on the evidence he was given that the Talinn Line around Moscow was not an ABM defense and that the SS–9 intercontinental ballistic missiles were not equipped with maneuverable warheads. But in 1969, Kissinger's verification panel succeeded in injecting doubts into these conclusions, even through the C.I.A. continued to support the earlier ones.

Shortly thereafter, in spite of Nixon's orders for everybody to throttle down on anti-Soviet speeches and to exercise restraint, Defense Secretary Melvin Laird accused the Russians of aiming at a first-strike capability. It was the most anti-Soviet statement an American in Laird's position could have made, for it implied aggressive Kremlin intentions.

As regards trade, Nixon was again cautious and uncooperative. In his efforts to accumulate as many bargaining chips as possible, this, too, was to be husbanded for the day when it could be exchanged for something he needed. Contrary to the common assumption, Nixon was convinced that trade could only follow improvements in the political field. This, again, was different from the old theory held by Ambassador Thompson in his Moscow days. The argument then was that since the trade would not amount to very much, it would be worth making concessions as a demonstration of goodwill. But Thompson blamed American industry for its Government's reluctance, because he thought the industrialists feared Russian competition.

THE CUBAN INCIDENT

Still, Nixon meant to get into serious negotiations with the Russians on a broad front of problems, even though he began to realize that he would not be able to insist on these negotiations being interrelated. He learned it the hard way. After his first disappointment of learning that the Russians could not help him in Hanoi, his second was that he could not arrive at an agreed policy with them on the Middle East. It led him to have grave doubts about Russian intentions.

They were sharply accentuated by the so-called "Cuban incident" in September, 1970, involving a Soviet submarine tender. Nixon at first did not want to disturb relations and decided to try secret diplomacy to avoid creating too much of a fuss about it, and to make clear to the Russians that he was as determined as Kennedy to prevent their establishing an offensive military base at Cienfuegos.

But the "incident" broke into the open in a column by C. L. Sulzberger of The New York Times on Sept. 25. The same day, the Pentagon cautiously confirmed it, and later still the same day, Henry Kissinger at a background briefing on the President's trip to the Mediterranean issued a strong warning that the United States would consider the establishment of a Soviet strategic base in Cuba a hostile act. The State Department was at first puzzled by these warnings and some of its officials criticized them as a cold-war exercise. But the White House, though it did not want to ring the alarm bell in public, made certain that the full implications of this Russian initiative were understood at least by the press and Congress.

The reason for the American concern stemmed from the presence of the 9,000-ton Ugra-class submarine tender and two barges which, according to an expertly researched story by Benjamin Welles, also in The New York Times, had been shipped from the Soviet naval base of Polyarny, near Murmansk, to Cuba. They had no power of their own and were intended as storage space for radioactive wastes which nuclear submarine reactors discharge from time to time.

The initial suspicions that the Russians were building up a new presence in Cuba had been aroused by photographs showing a soccer field close to new military barracks, and since it is well known that Cubans do not play soccer, but that in Russia this is a very popular sport, a warning signal went up. U–2 photo reconnaissance, which had dropped to one flight a month, was swiftly increased and came up with proof that new communication towers, new barracks and new antiaircraft sites were under construction, and that two barges and a tender were at anchor at Cienfuegos; it all added up to a potential nuclear-submarine base. A nuclear submarine was even identified in the vicinity, though not actually at the harbor of Cienfuegos.

One of the key questions was whether the submarine and tender would marry up, for that would have been the most conclusive evidence. They never did, though they probably would have, the experts concluded, had not the preparations been discovered in time. Once the installations were in place, the United States would have been presented with a *fait accompli*. The Russians could have said then that because the Americans had not raised the issue, they had simply assumed it was acceptable and had gone ahead. The Soviets could have argued, too, that in exchange for a withdrawal the United States had to make a concession—say, by giving up a base in Europe.

What worried the Pentagon was that with a refueling base in Cuba, Soviet submarine strength in the area could be increased, for then the Russians could cut short their patrols and avoid the 8,000-mile round trip from their West Atlantic stations back to Polyarny. What worried the White House more, though, was the deception by the Russians just when the two sides were beginning to have serious talks. Since there was every indication that the facilities to handle nuclear submarines were being built on a crash basis—the new construction had been erected within a month—a speedy intercession with the Russians was imperative.

Kissinger summoned Ambassador Dobrynin to his office and reminded him, after describing the American findings, that the Russian activities violated the Kennedy-Khrushchev understanding which stipulated that the Soviet Union would not use Cuba as a base for nuclear weapons. Dobrynin at first expressed surprise but, according to a description in Kissinger's own memo of record, turned "ashen" when the full evidence was presented and the possible consequences of Soviet persistence in these activities were outlined.

The Kennedy-Khrushchev understanding of 1962 allowed for defensive ground-based SAM and ABM missiles on Cuba, but not for servicing nuclear submarines which are offensive weapons. Dobrynin promised to give Kissinger requested assurances, but did not manage to do so before Sept. 27, when Kissinger left with the President on his second trip to Europe, designed to bolster NATO and to warn the Russians not to overplay their hand in the Mediterranean.

One of the problems at the time was to convince the American public, Congress and the press that the Cuban accusations were not an attempt to "manufacture" a crisis, but a serious controversy with grave implications. The perturbations were set at rest when the Russians, after separate talks between Rogers and Gromyko at the United Nations, and Kissinger and Dobrynin in Washington, laconically reconfirmed through a Tass statement in Oct. 13 that the Soviet Union "has not been and is not building its own military base" in Cuba.

In private, Dobrynin confirmed that the understanding of 1962 existed and would be upheld. Even though these Russian assurances were not all that was asked for, the State Department spokesman characterized the Soviet statement as "positive," indicating that the United States was satisfied. It was a textbook case of preventive secret diplomacy which succeeded in averting the build-up of a really serious, potentially dangerous crisis. Nevertheless, the White House privately suggested to the press that it would prefer that no victory be claimed. The case was considered closed.

Between the summer of 1970 and the autumn of 1971, United States-Soviet relations underwent important tests of strength: not only in the Cuban incident but also in Jordan and in the cease-fire confusion along the Suez Canal. In each case the United States remained firm. And there was also what one could call an internal Communist crisis, the workers' rebellion in Poland, which must have made quite an impression in the Communist Party Congress in Moscow at which Brezhnev signaled the basic decision in favor of the *détente* policy and the new approach to domestic economic development. It was a far-reaching decision and it led to increasingly more businesslike negotiations.

KISSINGER MEETS BREZHNEV

Chairman Brezhnev, for the first time, moved to the forefront as the man behind the forceful *détente* policy when he invited Chancellor Willy Brandt to the Soviet Union. It was on this occasion that Gromyko, with his sardonic humor, expressed Russia's unconcern about the Common Market by remarking to Brandt, "It is a tame animal, a dinosaur born in captivity."

Brezhnev's private exchanges with President Nixon also gained frequency and led to the first agreement in principle on SALT and later to the clinching of the Berlin agreement. Other Russo-American bilateral interests began to be more carefully defined and worked over, as were the plans for a summit meeting which, the Russians insisted, was first suggested by President Nixon. But from the Russian viewpoint, it seemed to be a virtual must after Mr. Nixon's voyage to China, for the Russians were far too concerned about the possibility of American-Chinese collusion directed against them.

Kissinger flew to Moscow early last spring on Brezhnev's invitation to try to work out guidelines for the summit conference. Not unexpectedly, the subject of Vietnam occupied almost half the time of the discussions between Kissinger and Brezhnev, who surprised Nixon's emissary because he proved to be much smarter, much more intelligent, much better informed than he had expected from everything he had heard about him. It only went to prove that although Brezhnev is a creature of the Soviet bureaucracy, to become *primus inter pares* nevertheless requires outstanding leadership qualities.

Kissinger found him tough, but capable of

greater informality than he had expected, a man who needed no coaxing or coaching by aides in discussing the issues at hand and who dealt with most of them personally and knowledgeably. But in contrast to Mao's or Chou En-lai's mind, his was nonconceptual; it was also difficult to discuss internal political problems that had direct bearing on foreign affairs. For instance, during Kissinger's first stay in Peking, Chou suggested that he wanted to tell him about the cultural revolution.

His enraptured guest indicated that he need not, if it were at all embarrassing to him, but the Chinese Premier simply set aside this courtesy with a wave of his hand and insisted that he wanted to explain this very significant development in Chinese history because it was essential to an understanding of Chinese policy today. With the Russians, on the other hand, when Kissinger once or twice tried to raise questions about domestic events that went back 15 to 20 years, they behaved as if they had not heard him.

Much progress was made in preparing the summit agenda. Half a dozen difficult points in the SALT agreement still were left open, but the inclusion of sea-based Polaris missiles, to which the Russians had previously objected strenuously, was accepted by Brezhnev within a day after Kissinger further explained a new compromise proposal he had forwarded 10 days in advance via Ambassador Dobrynin. No decision was reached on whether to include the agreed "principles" that the Russians had originally proposed as part of the package of agreements; the problem of Vietnam also remained unresolved. The general framework for the summit, however, was agreed on, and there was a good understanding as to the emphasis to be given to various issues. A new tone for negotiations had been set, a new readiness on both sides to talk informally had been achieved that nobody had held possible.

Most disappointing, but not surprising, was the Russian refusal to stop supplying North Vietnam with more arms. But there was ample evidence that Mr. Brezhnev was unhappy about the timing and even the launching of North Vietnam's massive offensive.

With the United States forces withdrawing, it seemed inevitable, at least to the Russians, that Hanoi would gain its objectives within a very few years; the enormous losses in men and material, therefore, seemed to them a sign of stubborn foolishness. The Russians had taken that view for a long time. As far back as the time of Kosygin's visit to London in February of 1967, when Prime Minister Harold Wilson thought he had detected a willingness on the part of the Russian Premier to intervene in Hanoi, the Russians argued that if the North Vietnamese were only smarter and not so blood-thirsty they could have conquered South Vietnam with ease.

When Kissinger was about to leave after four days of private talks with Brezhnev, he was toasted by Deputy Foreign Minister Vasily V. Kuznetsov, a man of considerable charm and humor, in the name of the state of the Soviet Union. Sergei Nikolayevich Antonov, the man in charge of V.I.P. security, whose ward Kissinger was wherever he went, was pleased that everything had gone well, and also raised his glass to their American guest, toasting him in the name of the state secret police. Kuznetsov, a little surprised at Antonov's toast, asked, "Do you mean to say that the secret police is not part of the state?" But Antonov simply repeated that he wanted to add his toast in the name of the state secret police!

The secret meeting between Kissinger and Le Duc Tho, Hanoi's chief negotiator, in Paris, shortly after his talks with Brezhnev, which the Russian leader had said could be productive, was somewhere between a fiasco and a charade. The North Vietnamese, with their military offensive in full swing, wanted to gain time for Hanoi's forces to occupy as much territory as possible before accepting anything resembling a cease-fire, and Kissinger did not want to wait for the situation on the battlefield to get worse, knowing that the President was ready to play a trump card of desperation and order the mining of Haiphong harbor. If Le Duc Tho had some concessions up his sleeve, he did not produce them at the first meeting and Kissinger did not give him a second chance.

THE HAIPHONG GAMBLE

Kissinger returned to Washington with the stage set for the Moscow summit, but just at that time President Nixon was facing the most daring decision he had yet taken, to mine Haiphong harbor as a counterthrust against North Vietnam's May offensive. This was a decision President Johnson had never risked taking; it was a slap in the face for the Russians and a challenge to their ideological relationship with Hanoi. It created suspense in the White House where the possibility of postponement or cancellation of the summit suddenly looked likely. It created suspense in Congress and in the press, where Mr. Nixon was widely criticized for risking a SALT agreement for the sake of an intensification of the war. It created suspense in Moscow, where the Politburo obviously saw itself confronted with an extremely embarrassing decision. But President Nixon had talked himself into white anger.

The North Vietnamese offensive had upset all his calculations. It proved to pack a far greater punch than anybody in the United States Government had anticipated, thanks to the heavy and more sophisticated weapons the Soviet Union had provided—the tank and artillery strength, particularly, were well above American intelligence estimates. Without the enormous panoply of American air power, the South Vietnamese Army would have been destroyed.

On the old target list prepared by the Joint Chiefs of Staff in President Johnson's days, after the bombing of Haiphong—came the mining of the harbor. President Nixon, desperate to prove that the Vietnamization he had praised so often was not a failure, decided to play the riskiest card. He hardly batted an eyelid. He had considered the consequences and was willing to accept them.

His advisers were unanimous that the Russians would not go ahead with the summit as planned. Indeed, some would have welcomed a Russian postponement or a cancellation to avoid Mr. Nixon's arriving in Moscow with his position in Vietnam eroding. Serious consideration was given to an American cancellation of the summit—a speech to announce the cancellation had already been prepared—but then that idea was rejected in favor of testing the Russian "manhood" first. No doubt, if the summit had been canceled or postponed Mr. Nixon would have tried to wrap himself in the American flag and claim he had acted in the defense of American honor.

It soon became clear that there had been bitter controversy in the Kremlin, but that after several days of hard deliberations over whether to proceed with the summit, Chairman Brezhnev carried the day; to the surprise of the White House and Mr. Nixon's critics, there would be no change in the timing or in the arrangements for the visit. The last thing the President's critics had expected was to be disarmed by the Kremlin.

Several Soviet trade and maritime officials who were in Washington for negotiations at the time spent a day or two of uncertainty but then continued to smile and to negotiate. When Comrade Pyotr Y. Shelest was demoted a few days later, it became obvious that Brezhnev had made certain that he had the unanimous backing of the leadership. The lone dissenter was not allowed to disturb this unanimity.

Two weeks later, Pravda went a long way toward admitting that a controversy had occurred in the Politburo: "The dialogue took place despite the complexity of the international situation and in the face of the sometimes direct opposition of those who like to warm their hands by fanning the fires of hostility and tension." Pravda sounded like Senator Fulbright putting Senator Scoop Jackson in his place. Nikita Khrushchev had been willing to rupture relations with President Eisenhower after the U–2 incident in 1959 and had broken up the Paris summit meeting; but he knew the President had only another year in office. Brezhnev did not want to take the same risk with President Nixon.

A cancellation of the summit would almost certainly have jeopardized ratification of the Soviet-West German treaties. It would, also have left the United States seemingly with better relations with China than the Soviet Union. It would have delayed prospects for trade expansion and put the question of *détente* with the West into question, the *détente* on which Breznev had staked his place in history. Compared with these objectives, Haiphong was only a passing incident.

PEACEMAKING

The validity of these considerations was confirmed in various ways by Brezhnev in his private talks with the President. Brezhnev, who is 66 but looks 55, has most likely only another five years at the top, and there were ample indications that he wanted to be remembered as neither a Stalin nor a Khrushchev, but as a peacemaker who also wanted to improve the life of his people. By remarks such as "the terrible things people say about me," he showed that he was aware of having the reputation of being crude and brutal—a reputation that seemed partly to go back to the punitive expedition into Czechoslovakia in 1968—and that he wanted to erase it.

He has even gone to such extremes as shaving down his bushy eyebrows because they give him a somewhat sinister look and make him an easy target for cartoonists. He pays much attention to clothes: to the earlier Kissinger meetings he sported a light blue jacket and flamboyant tie, but for the President he preferred the sober-suited look of the trade-union boss in his Sunday best. Socially, he is surprisingly at ease.

In business discussions, be exudes a dynamic bargaining technique. In various small ways during the Moscow summit he went to great lengths to show that he has good simple human qualities. Quite obviously, he is a man with a much more balanced temperament than Khrushchev, who had he been confronted with the mining of Haiphong harbor, undoubtedly would have volleyed his shoes against the wall in anger and canceled the summit. Brezhnev, it soon became evident to the President and Kissinger, was much more deeply committed than they had assumed to a detente not only with the United States but also Western Europe.

The competitive feeling toward China also came out. It appeared to be conditioned by ideological and security considerations, but it also went deeper, and those who had a chance to listen to Brezhnev came away with a feeling that it might be rooted in some sort of ethnic prejudice, certain cultural inferiority complexes and possibly also a feeling of guilt about past relations with China. "For a European mind like mine," the Communist party chairman once remarked in a tone of quiet exasperation, "the Chinese are impossible to understand."

During most of the private conversations the President had with Brezhnev, no members of the Politburo were present, only Foreign Minister Andrei Gromyko. To the surprise of the President, Brezhnev insisted that

the only interpreter allowed to be present at this talk was to be Victor Sukhodriev, the charming and adroit Russian who can put on an American accent as well as an English accent. Brezhnev was obviously distrustful of an American interpreter and refused to accept one. The President had to rely on minutes dictated by a Russian. Once, in talking to Kissinger, Brezhnev seemed to share President Nixon's idea about the dispensability of foreign secretaries. "Maybe we should send Messrs. Gromyko and Rogers first to Mars to see what it's like up there," he suggested, "and if they don't come back we shouldn't go." Then he teased Kissinger about how much better university professors are treated in the Soviet Union.

Gromyko, too, showed not only his impressive qualities as a foreign-policy expert, but also his puckish sense of humor. When Kissinger wondered whether it was better for him to speak close to the orange or the apple, implying that he assumed that one or the other contained a miniature microphone, Gromyko looked up to the ceiling, from where a sculpture of a heavy-bosomed woman looked down on them. He pointed at one of her breasts—word of Kissinger's interest in the ladies had obviously reached the Kremlin—and said: "No, I believe it is in there."

Brezhnev, though always appearing to be acting within the guidelines agreed on by the Politburo, clearly had a strong hand in formulating them. He also seemed to have more rapid access to information than the others in the main negotiating sessions, Kosygin and Podgorny accompanied the chairman.

During the summit meetings last May, Brezhnev seemed much calmer and more at ease than when he met with Kissinger earlier in the spring. Then he played constantly with his watch chain, tapped the table with his cigarette holder, got up at intervals and walked around restlessly. Now he seemed jovial and in a joking mood. Several times he put his arm around Kissinger's shoulders as a kind of gesture of welcome, and proved to be an altogether more likable person than the Americans had expected. With Nixon, he kept a formal and respectful distance.

THE BENEFITS OF THE SUMMIT

It was not only the factual negotiations or their results that mattered; above all, an American President and the Soviet leadership took full advantage of an opportunity really to discuss their mutual problems and their outlook on the world in a relaxed and informal manner. They were able to feel each other out and to lose some of those preconceived views about each other.

Obviously the mountains of suspicion accumulated over two decades of cold war cannot be blasted away in one meeting; many will persist, and on the periphery of the direct bilateral interests between the United States and the Soviet Union dangerous situations will continue to exist. But what was most reassuring to the President was that the Soviet leadership had finally come to understand the full implications of nuclear war, the need for imposing controls on the arms race, for redoubling the efforts to widen those controls and to grapple with the conceptual problem—irrespective of their ideological view of the world, of which there continued to exist strong vestiges that assert themselves from time to time—of how to live with the most powerful enemy in a way that will not jeopardize each other's and everybody else's survival; in short, how to maintain order in the world, like everybody else, though, the leaders of the Soviet Union remain very much confused on that score.

They were most likely as much confused by Kissinger's initial euphoric statement last Oct. 26 about peace in Vietnam being at hand and by the subsequent sudden breakdown of the peace negotiations as were most Americans. The essential clue, I believe, to what had happened was that Kissinger's first and foremost aim was to end the American involvement in Vietnam on terms that would give President Thieu a reasonable enough chance to preserve the independence of South Vietnam, while President Nixon's overriding aim was a settlement that would insure South Vietnam's independence at least to the extent that he would not be embarrassed by its collapse while still in office.

The usually ultrarational Kissinger, fired by finding himself on the threshold of fulfilling the greatest task he had set himself in the White House—ending the American involvement in the war—became uncharacteristically euphoric as he faced the press. It was most likely also this euphoria that led him to be overconfident in his ability to persuade Thieu to accept the terms he had negotiated.

He defined them in private conversations at the time as the "best attainable." President Thieu successfully resisted them, and Mr. Nixon subsequently seemed to have reached the conclusion that better terms must be obtainable.

The savage bombing of Hanoi after the talks had been broken off aroused worldwide criticism. It also led Mr. Brezhnev to make some sharp comments. But he did not feel bitter enough to keep his children from attending a reception at the U.S. Embassy in Moscow given for Mr. Nixon's daughter Tricia and her husband. Bilateral interests again seem to have asserted themselves. Still, the unexpected prolongation of the war, the uncertainty about American trade policy toward the Soviet Union after the dismissal of Peter G. Peterson, who negotiated the trail-blazing trade agreements, created enough uncertainties in the Kremlin for high-level hints to be dropped that Mr. Brezhnev's spring visit would be postponed until autumn.

For Americans the *détente* with the Soviet Union was also a confusing experience. For two decades it had climbed and climbed to become the world's supreme power, it accepted responsibilities much against its traditions and habits of thinking, and with a certain amount of guilt as well as ambition.

Both the political right and left were united, by the fear of communism and a missionary zeal, a new deal to the many downtrodden around the world. It was the only way for a number of successive Administrations to maintain public backing for a foreign policy that was new and alien to most Americans.

Now the traditions and the guilt and a reassessment of American values and a disillusionment with the results of that policy are asserting themselves, and as a consequence, the consensus that sustained it has disintegrated. The Soviet leadership, on the other hand, though it has come to recognize a certain community of interest with the United States, shows a new dynamism that animates its foreign policy and continues to propel it toward more ambitious geopolitical goals.

In other words, while the Soviet Union has acquired a new zest in establishing itself as a world power more or less equal to the United States, the United States has become a reluctant world power.

ARCHITECTURAL BARRIERS ON CAPITOL HILL

Mr. CHURCH. Mr. President, on December 7, Mrs. Church and I—alarmed by reports that architectural barriers were causing problems for handicapped congressional employees and visitors to Capitol Hill—inspected the Capitol Building in the company of the Architect of the Capitol, Mr. George M. White.

Mr. White had agreed to accompany us on an inspection tour led by Mr. Peter Lassen, former executive director of the Paralyzed Veterans of America and for the last 3 years an administrative assistant with the Veterans' Administration. From his wheelchair, Mr. Lassen pointed out physical features which cause difficulties for the elderly and the handicapped in the Senate Office Buildings, the subway to the Capitol, and the Capitol.

We discovered, for example, that passenger waiting areas at the subway are painted in gray, providing poor contrast between the tracks and the curb. Some ramps have been erected over steep stairways, but they are for the convenience of maintenance men pushing hand trucks, rather than for the convenience of visitors or handicapped employees. The Senate Gallery is inaccessible to visitors in wheelchairs.

I am happy to report that Mr. White was most alert to the possibilities for corrective action. In fact, he told Mrs. Church and me that many of these actions can be taken without great expense. I submit for the RECORD a copy of a letter in which the Architect reports on the progress made thus far, as well as his plans for future action.

I am pleased by the Architect's responsiveness and obvious concern. I believe that the Capitol Hill complex of public buildings can provide model solutions for corrective action in old buildings and in buildings now under construction.

Furthermore, I am pleased that Mr. White has agreed to meet from time to time with an informal advisory group composed of individuals who have been helpful to the Senate Committee on Aging, of which I am chairman, in our study of architectural barriers as they affect the elderly and the handicapped.

In addition to Mr. Lassen, the group includes architect Edward Noakes, representing the President's Committee on Employment of the Physically Handicapped and the American Institute of Architects. Mrs. Martin Eaton, who is associated with the Cerebral Palsy Associations, also participated in the December 7 tour and has provided important assistance.

Mr. President, I applaud the Architect of the Capitol for making such a promising beginning, and I can assure him that the Committee on Aging will maintain a lively interest in his future progress. Speaking for Mrs. Church, who is director at large of the Women's Committee for the United Cerebral Palsy Associations, I can assure him of her continuing interest, as well.

I also ask unanimous consent to have printed in the RECORD two excellent articles reporting on the December 7 visit.

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

WASHINGTON, D.C.,
December 20, 1972.

Hon. and Mrs. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR AND MRS. CHURCH: This interim report is submitted in order to keep you apprised of progress regarding our program to alleviate architectural barriers to the handicapped on Capitol Hill.

In accordance with our discussions during our December 7th tour of the buildings, drawings are being prepared so that the various ramps that we encountered can be altered to reduce the percentage gradient to an appropriate amount.

The subject of a desirable color differential at the subway track areas raised, for me, the entire question of safety at these locations. As a result, I have initiated the design of railings to be installed along the edges of the loading platforms, with openings at the car door locations.

Additionally, with regard to the new James Madison Memorial Library Building, I have initiated a re-examination of our previously established policy of designing new buildings to be barrier-free, in order that we may be certain that no possible barriers have been overlooked. I hasten to add that our initial review has indicated that the building has indeed been designed appropriately from that standpoint.

Peter Lassen, Pat Callahan, Edward Noakes and I met on December 19th and evolved the following four-step procedure:

(1) A member of my staff will conduct an in-house inspection of the buildings under my jurisdiction after an orientation meeting with Peter Lassen.

(2) Our ad hoc committee (named above) will meet to consider the inventory of items resulting from the inspection.

(3) The committee will establish priorities from the inventory list and will determine appropriate means of implementation of the needed corrections.

(4) Obvious and simple implementation of apparent difficulties will proceed simultaneously with (3).

The group recognized that our goal is not simply to concern ourselves with the difficulties that are encountered by persons in wheel chairs but, rather, to include the problems that are a concern of the aged.

A further consideration is the difference in needs of those handicapped persons who might be employed on the Hill and those who may simply be visitors.

We shall continue to press forward after the first of the year and will keep you apprised of our progress.

Best wishes of the holiday season to both of you.

Cordially,

GEORGE M. WHITE,
FAIA, Architect of the Capitol.

[From the Washington Star-News, Dec. 8, 1972]

WHEEL CHAIR DEMONSTRATION: CAPITOL NAVIGATING ROUGH

(By Betty James)

The U.S. Capitol is a veritable obstacle course for the handicapped and the aged, particularly if they are in wheelchairs, a senator and a paralyzed Vietnam veteran maintain.

To prove their point, Sen. Frank Church, D-Idaho, chairman of the Senate Special Committee on Aging, and Peter Lassen, a paralyzed Veterans Administration official in a wheelchair demonstrated to George M. White, architect of the Capitol, the pitfalls awaiting the handicapped yesterday.

They started their tour with the famous and—for those who can board it—fun Senate subway.

But Lassen and the party took the walkway from one of the Senate office buildings to the Capitol rather than the subway because, as Lassen explained: "It's impossible for a person in a wheel chair." Church observed that the cars could easily have been designed level with the platform and with wider doors.

The tour went on through revolving doors that have to be partially dismantled by Capitol police for use by a wheelchair, an effective outdoor ramp installed for President Franklin Roosevelt—"nothing wrong with this except esthetics," Lassen said—and to inaccessible phone booths and coat racks.

The party then came to inside ramps, too steep and too narrow, with an incline of 12 percent to 15 percent while a good incline is 3 percent to 5 percent, Lassen said.

Running next to steps on the first floor of the Senate and House these ramps were not installed for the benefit of the handicapped, as many nonhandicapped innocently assume, but to make it easier to push handcarts from one hall to another.

The ramp on the Senate side is in the oldest part of the Capitol, begun in 1793 and completed in 1799, White said. William E. Oriol, staff director of the aging committee, said "If we can fix things up here (for the handicapped) in this old, old building we should be able to do it anywhere."

One thing was a complete success from Lassen's point of view: New tables in the Senate cafeteria, 28½-inches high and set on a pedestal base, have plenty of room for a wheelchair to slip under.

The senator's wife, director-at-large of the women's committee for the United Cerebral Palsy Association, Inc., also took the tour.

She and Church had expressed their concern to the architect in a letter that said: "It would be unfortunate indeed if handicapped individuals are unable to accept employment . . . simply because inadequate thought has been given to the architectural barriers within the Capitol Hill federal complex."

White, who was named to his post in January 1971, pledged his full cooperation and committed himself on the spot to several changes. "Where you have a historic building you're not as free to do some of the things you would want to do," he said. "Don't misunderstand me. We can do a lot."

[From the Washington Post, Dec. 8, 1972]

A WHEELCHAIR VIEW

(By Judith Martin)

The Architect of the Capitol went on a tour of the Capitol yesterday—walking slowly because he was following a wheelchair—and saw a number of things of which no official notice has been taken before:

Ramps which are fine for trash carts but too steep for people in wheelchairs.

Elevators too narrow for a wheelchair to enter.

Subway cars useless to anyone who can't climb up into them.

Doorsills difficult for a person in a wheelchair to negotiate.

Revolving doors: Impossible without two policemen to prop them open.

A public gallery open only to members of the public who can manage the steps into them.

The tour was conducted by Peter Lassen, who is with the Veterans Administration and serves as national architectural chairman of the Paralyzed Veterans of America. It was suggested by Sen. Frank Church (D–Idaho) and Mrs. Church, who went along on the tour with the Architect of the Capitol, George M. White; Edward H. Noakes, who is on the President's Committee on Employment of the Handicapped, and Mrs. Martin Eaton, who works with the Cerebral Palsy Associations.

Some of the changes necessary might be easy, said White: lengthening ramps to make them less steep, for instance. But he said he was not able to predict when these might be accomplished.

Other changes proposed were questioned by Lassen and Mrs. Eaton. Making special tables available in cafeterias which could accommodate wheelchairs would, they pointed out, have the effect of segregating the handicapped. By chance, it turned out that the table in the Senate Refectory, (which was on the tour) worked nicely.

Sen. Church hopes to introduce a bill next year which would call for stricter provisions for accessibility than are presently required in new federal buildings.

In the meantime, it was proposed that a pamphlet be prepared showing the handicapped what routes to take in going through the building. "That's fine," said Lassen, "but it's also a way of showing you all the places you can't go."

AIRPORT HEAD TAX

Mr. MOSS. Mr. President, just last week the Senate Commerce Committee reported out S. 38, legislation which would prohibit the imposition of head taxes on air travelers. This is only fair and equitable. Under the Airport and Airway Development Act, a substantial tax is already charged to the traveling air passenger. What justification can there be for localities to levy additional taxes when they are benefiting already from the federally levied taxes on the traveler.

Even more ironic is the audacity of some communities to levy the tax and not even use it for airport operation. I will continue to oppose the head tax as it is inequitable and unjustified in view of the Airport and Airway Development Act and the taxes already in existence.

Mr. President, a most lucid editorial on this problem appeared in the Deseret News on January 2, 1973. I ask unanimous consent that the Deseret News editorial be printed in the RECORD.

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

JUNK THIS TAX

Should Salt Lake City charge air travelers a departure fee at the boarding gate to help maintain International Airport?

Sooner or later that question seems likely to arise locally as more and more communities impose such a head tax. At last count airport departure fees, from $1 to $3, were charged in 19 communities, from Philadelphia to Lewiston, Idaho.

In fact, so popular—and bothersome—have such fees become that next month a once-vetoed bill that will be reintroduced in Congress to ban departure taxes and raise the level of federal aid available for airport development.

The argument for the departure tax is based on the proposition that airports should be operated as nearly as possible on a self-sustaining basis. Local taxation, it is contended, is—like any other user charge—a potential means by which airports could gain additional revenue. Moreover, if someone can pay $100 to fly from one city to another, he can afford to pay an additional dollar or so to help relieve the tax load on local residents.

The argument against the departure tax sounds more persuasive. In some cases, increased taxes on air travel are being used for purposes having nothing at all to do with airport development.

While air prassengers should pay a fair share of the benefits of air travel, an airport helps many people in a community including those who never take a plane. Imagine what would happen to Salt Lake City's economy if International Airport were shut down.

For years airlines have been working to reduce the time involved in ticketing a passenger and getting him aboard a plane. But when an airline must collect a departure tax, it takes additional administrative time.

Besides, a departure fee is a form of double taxation. The price of an airline ticket already includes a federal tax used to finance airport development and improvement.

The Supreme Court has ruled that airport

departure taxes are legal. But that certainly doesn't make them wise.

THE VIETNAM SETTLEMENT

Mr. HELMS. Mr. President, if we are to think clearly about the Vietnam settlement, we must speak clearly about it.

For years many people, including some in this body, have spoken with less than real clarity about various aspects of this war. This has been the case particularly with regard to various measures described as "end the war" measures.

It has always been the case that Congress has been powerless to end the war. And it has been apparent for a number of years that the United States would not use the force necessary, in the manner necessary, to end the war. The war in Indochina was raging long before the first American died there in 1961, and it would be rash to assume that the war will not rage again.

We have made a truce and called it peace.

The truce we have made is fragile. Just how fragile it is can be inferred from the fact that, as the President made clear in his address to the Nation, and as Dr. Kissinger made clear in his news conference, the durability of the truce depends on two notoriously unreliable things. It depends on the good will—the trustworthiness of the Communist governments concerned. And it depends on the effectiveness of an international policing mechanism.

As regards the Communist powers concerned, the government in Hanoi must keep its word to respect the truce, and the governments in Peking and Moscow must exercise uncommon—not to say unprecedented—restraint in supplying Hanoi with the means to further its traditional policies of aggression. Of course, it is not absolutely inconceivable that a Communist government will keep its word. The laws of probability being what they are, someday some Communist government may do just that. But the fragile truce at stake depends for its success on three Communist governments simultaneously acting honorably. Let us bear this in mind before succumbing to euphoria about our success at "ending the war."

Moreover, the durability of the truce depends on the effectiveness of an international policing mechanism of a sort that has a depressing record of unrelieved futility in Indochina. I hope the mechanism will succeed. I do not bet on it doing so?

With this said, what can we say we have accomplished?

I believe we may have won the war. Or, to be precise, we may have thus far achieved what passes for victory in limited wars. We have achieved—thus far—our limited aims. We have frustrated North Vietnam's aggression. North Vietnam set out to impose a government of its choosing on South Vietnam. It has failed, thus far. We have organized South Vietnam for the continuing effort that will be necessary to frustrate what probably will be North Vietnam's continuing aggression.

There are those who say we have not achieved anything that we could not have achieved 4 years ago. This is nonsense.

Four years ago the North Vietnamese insisted on a complete American military disengagement before discussing political matters. In other words, the North Vietnamese wanted us to abandon the means of influencing political matters before discussing political matters.

Four years ago—indeed, 6 weeks ago—it was impossible to get an agreement whereby the United States would get its prisoners back, and its missing accounted for, without forcing the South Vietnamese to release various prisoners.

Four years ago the fundamental North Vietnamese goal was to get the United States to impose a coalition government on the people of South Vietnam. Unable to win that on the battlefield, the North Vietnamese tried to win it at the conference table. They failed.

Of course, we too, failed to get at the conference table what we refused to win on the battlefield. That is why substantial numbers of North Vietnamese troops remain in South Vietnam.

The truce pact is not clear—indeed, it is a study in calculated ambiguity—on the point about which the war was fought. This is, what is the status of South Vietnam? Is it a sovereign entity? Is it a separate nation? This was the subject at stake in the negotiations that took much of the time in the closing days of the Paris talks, the subject of the demilitarized zone—DMZ. The question was: Is the DMZ a temporary military demarcation, or is it a political frontier dividing two sovereign states? It is clear that Hanoi thinks the documents initialed in Paris confirm that the DMZ is merely a military demarcation line. It is equally clear that the South Vietnamese can find some support in the documents for calling the DMZ a political frontier. What we have, then, is a situation where a disagreement—a crucial disagreement—persists. If the history of Indochina teaches us anything, it teaches us that when such disagreements exist, the disagreeing parties fight.

Thus, our policy for the future must include the following three lines of action.

We must do what we can to make the truce work.

We must share our material strength with the South Vietnamese, our allies, so they can defend themselves if the truce does not work.

We must make it clear to Moscow and Peking that we consider them implicated in any renewed aggression on the part of the Hanoi government which depends on Moscow and Peking.

To sum up: Our joy over the return of our men should not distract us from the fact that the cause for which they sacrificed, and for which so many of their colleagues sacrified, is not secure. We would mock American sacrifices if we did not continue to help the South Vietnamese resist aggression.

EUGENE WYMAN

Mr. BAYH. Mr. President, one of the great strengths of the American political system is the participation of concerned citizens in the political process. Democracy draws its lifeblood from the energy and commitment of public-spirited individuals who take on political roles ranging from complex campaign management to the simple act of casting a vote on election day.

Eugene Wyman of California, whose shocking death earlier this month saddened us all, was one of those individuals whose special devotion to the political process gave us all faith in its survival, despite growing cynicism in some quarters. Democracy is built on the devotion of people like Gene Wyman and his death is not only a great loss to his dear family and many friends, but a loss to all who respect the 200-year-old American tradition of participatory democracy.

As Democratic State Chairman in California and as a member of the Democratic National Committee, Gene Wyman took on major responsibilities within our party. And while he always liked our party to succeed, Gene Wyman, a concerned, involved American, cared most about the perpetuation of a vital, strong democracy.

This is his epitaph. It is one of which his lovely wife, Roz, may be justly proud. Marvello and I mourn her loss, for her loss is really a loss for all of us.

PRESIDENT LYNDON B. JOHNSON

Mr. HUMPHREY. Mr. President, we have observed in the press an outpouring of meaningful comment on the life and legacy of our remarkable former President, Lyndon B. Johnson.

I ask unanimous consent that a selection of recent articles and editorials, including the transcript of a CBS news special, be printed in the RECORD.

I hope that when the bound volume of tributes to President Johnson is printed it will be possible and proper that these editorial reflections be included.

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

[From the Minneapolis Tribune, Jan. 23, 1973]

LYNDON B. JOHNSON

An era died yesterday with Lyndon Baines Johnson. It was already coming to an end in March 1968 when, as president, he said he would not run for re-election. Perhaps Mr. Johnson knew, although he did not admit, that under his presidency the nation had done itself incalculable damage by sliding deep into the Indochina quagmire. "What irony, what tragedy," writes David Halberstam, "for a man who had so little taste for the military . . . who never wanted this particular little war, who had a sense of foreboding about what it might do to his domestic dreams, but could not pull back from what he saw as the forces of history."

To define the era that ended, one need only think back on those who preceded and followed Lyndon Johnson in office, and on what he did and failed to do.

He was a political child of Franklin Roosevelt's New Deal. In Congress then and during the Truman years he saw the rise of America to its predominant world role and the rise, too, of federal concern for the black, the poor and the old. Under Dwight Eisenhower he was leader of the loyal opposition in the Senate, cautioning the president against intervention to forestall French defeat in Indochina. As John Kennedy's vice-president, he was never quite at ease among the energetic intellectuals brought into the White House, but he shared the can-do philosophy of the thousand days. He lived to see Richard Nixon take more than four years to end

"Johnson's war"; to see a revolution in American relations with Russia and China; to see, sadly, a start made in undercutting Mr. Johnson's finest achievements.

Every president of the last 40 years has earned a place in history by acts of leadership. Mr. Johnson's place is assured by his initiative in social reform. Not only did he say what needed to be done, but—equally important—he had the support and the know-how to push his programs through Congress.

In May 1964 he told students at the University of Michigan: "For in your time we have the opportunity to move not only toward the rich society and the powerful society, but upward to the Great Society . . . It demands an end to poverty and racial injustice, to which we are totally committed in our time. But that is just the beginning."

One thinks of Medicare, the Voting Rights Act, of legislation for an array of urban programs, of the expanded activities of Health, Education, and Welfare. Some of those ideas were too hastily conceived, and some created unrealistic expectations of early success. But they created a needed momentum of social concern backed by a commitment of resources. It is a commitment that neither Mr. Johnson nor, we believe, most Americans would want to see eroded by the executive-branch reaction now in the offing.

Ironically, it is another kind of commitment that marred the Johnson record. He carried the stigma of Vietnam, although he was not the president who first involved Americans in the war. And although he was the president who first said of that involvement, Enough, it is he who rightly was charged with letting American participation grow to devastating proportions.

What died with Lyndon Johnson, and maybe before, was the American belief that this country must go any place to defend any ally at any price. In its place has grown the more prudent belief in limitations of American power to which President Nixon alluded Saturday. That should not mean a shirking of international responsibility, only an admission that this country alone cannot act as global guardian.

What grew with Lyndon Johnson was the American belief in responsibilities at home. Not all his visions of the Great Society fully materialized, but a surprising number did. As he said in the 1964 Michigan speech, "But that is just the beginning." It is a good way to remember Lyndon Johnson.

[From the Minneapolis Star, Jan. 23, 1973]

LYNDON BAINES JOHNSON

So strong was Lyndon B. Johnson's personality that even though four years have passed since he left the White House, we still have not been able to perceive clearly his accomplishments. And yet this is natural enough, for Johnson was one of those presidents whose personal life and public acts were so interwoven that neither could be understood without the other.

He was part of a pattern that began with Jackson and may very well be ended now: The home-spun, up-from-the-soil politician that was a product of the American frontier. Out of this, each in his own way, came presidents like Lincoln and Truman and below the presidential level scores of senators and congressmen. This was, in wide outline, the Populist tradition, and it is close to Minnesota's own tradition.

It was no accident that the lives of Lyndon Johnson and Hubert Humphrey are so closely intertwined.

They represent, as did Harry Truman, the stump-speaking, hand-shaking, down-to-earth, folksy style. In his lifetime this was often ridiculed as "cornpone" but even when Johnson was crushed with disappointment and frustration he was never aloof. He was a man of the people and, divided though the country became, he was a man for the people. That was why he found it so hard to understand the miasmic forces and hatred that the war unleashed.

From what perspective we now have it is both significant and ironic that he died as the war was finally ending, no longer "his war" but Richard Nixon's. It is difficult to see now how history will interpret the war he so enlarged in a more benign light, though in the fullness of time it may find some aspects less unforgiveable than we see them now. What is clear is that the war all but destroyed the Great Society. That was not only his, but the nation's tragedy.

But Johnson, more Western than Southern although still a man of the South, leaves a magnificent civil rights record, and already in short retrospect the framework of a progressive and humane domestic program. That he was carrying out the last stages of the Roosevelt revolution is no blemish on that record. He was the epitome of that great surge of humanitarianism. He could do no other.

He understood deep in his soul what was to stand weak in the dust, beset by economic forces over which one has no control. It is another historical irony that he died as President Nixon was seeking to change the fundamental policy putting aside as paternalism the kind of government Johnson had felt in his bones was right.

It may be that Nixon will demonstrate that New Deal "big government" is not the solution any more. In Johnson's time the spirit, if not always the form, of New Deal, Fair Deal, New Frontier and Great Society government seemed the only answer.

That Johnson, whose style was as open as the small town neighborhood, was under the pressure of adversity an angry, at times uncouth and downright mean man, can be forgiven now. He agonized over his mistakes. He was only too human, and the epitaph he deserves is his conviction "that we shall overcome" if we but gather and reason together.

[From the St. Paul (Minn.) Dispatch, Jan. 27, 1973]

LYNDON BAINES JOHNSON

A few weeks ago Lyndon Baines Johnson, the 36th President of these United States, sat in Austin, Texas, at a symposium and listened as old faces and names and some new figures in the struggle for decent civil and human rights in this country, were seen and heard on a podium set up in the Johnson Memorial Library.

Against his physician's admonitions he made a moving speech asking his audience to shake themselves loose from their lethargy and start anew a crusade against race discrimination and bigotry in this country.

When opposing black groups triggered by ultra-militants, some strident voices tried to take over the conference and an open dispute arose, Johnson again rose to his feet and made an impassioned speech in which he urged the assembled group to quit the quarreling, to sit down and reason out a course of strategy, and action to get the human rights movement back on track. While he talked he had to use nitro-glycerine tablets to keep from collapsing—all in the interest of trying to convince leaders that fragmentation and division were suicidal to solid progress and offered no real return in progress.

Lyndon Baines Johnson died the other day. We believe that he never had fully recovered from his physical and emotional effort at Austin at the civil rights symposium. In a large sense, be became a martyr with Martin Luther King, John and Robert Kennedy, to the cause of human rights and decency for all American people.

Just as he picked up Dr. King's cry for peace and victory over bigotry, "We shall Overcome," he died that all people should enjoy the freedom promised by the Bill of Rights. Lyndon Johnson knew his days were numbered unless he was very careful about his health, but he felt he had a contribution to make and he felt he had to rally once again those who had led the battle for decency in the Civil Rights Bill, the Voting Rights Bill and other legislation needed to give a large percentage of this nation's population its just rights. He dared to risk his life to do this and Monday he made the Supreme Sacrifice because of what he felt was his duty.

Lyndon Baines Johnson looms large and larger in our minds as he leaves us. We stand bereft—comforted, however, because there was a man who dared move over with a black man and join him in proclaiming, "We Shall Overcome."

[From the St. Paul (Minn.) Dispatch, Jan. 23, 1973]

LYNDON B. JOHNSON

And then came Vietnam, violent dissent and personal defeat and tragedy. That is about the essence of what could have been a presidential career that would have been viewed by historians as grandly humanitarian and unqualifiedly great.

Without the war Lyndon Johnson, who died Monday at the age of 64, would have been given instant recognition as one of our great presidents. The activist southerner bulling through the Civil Rights Act of 1964 would, in itself, have given some guarantee of that.

What will be remembered most by this generation, though, was his widening escalation of the Vietnam war which had, at its worst under him, about a half-million fighting men involved in bloody conflict.

He got us into a major war there through one device or another, superbly confident of his mission and convinced of its rightness. In spite of the outburst of public praise and mourning Monday from friend and seeming foe, it will not be easy to arrive at the easy assessments so predictable at such a time. The Vietnam war was his tragedy and downfall.

He was a man. He had faults. He could be cruel. He could be generous. He was devious. He had a jovial openness. He did what he thought was right but understood and used the force of political clout as few before him.

He became the complete man in retirement, an elder statesman in the best sense of the term. He stayed out of the limelight he had treasured. He developed a mellowness that surprised those who had known him. He did not second guess or whine. We had all wished him a longer, peaceful retirement.

Although there were warnings, his death seemed to surprise us and to come far too soon. Whatever his faults, he was unique and a man who loved his country. His presence will be missed and he will not be forgotten.

[From the Christian Science Monitor, Jan. 24, 1973]

LYNDON BAINES JOHNSON

Lyndon Johnson's place in American history is presently obscured by the oppressive cloud of the war he allowed to get big during his presidency and which he was unable to finish one way or another. Yet someday that war will go away and its memory will fade. When that time comes the other Lyndon Johnson, who tried so very hard to make his country a better place for all its people, will take over as the more lasting memory of a president who was big of heart and enormous of ambition.

Much of what that other Johnson tried to do is under attack right now. The Johnson method is called "throwing money at problems." In the current wisdom that isn't the

way to solve problems. Richard Nixon is trying to undo much of what Lyndon Johnson launched. And, as such things are perceived today, much of it may have to be reworked and begun again.

The flaw in Johnson's work was that he tried to do more in one presidency than any one man could do in the span allotted to him in the White House. Yet, while it was a mistake to overdo, it was also the kind of mistake that springs from goodness and bigness of heart.

Lyndon Johnson had a dream. It was the new-old dream of frontier America, a dream of a society in which men are truly equal in opportunity and in dignity. In that dream all Americans—old or young, rich or poor, white or black, Protestant, Catholic, Jew or Muslim—begin the "pursuit of happiness" from the same starting line.

To that end Lyndon Johnson bullied, cajoled, and maneuvered the Congress into passing the biggest quantity of social legislation since the Roosevelt New Deal, perhaps the biggest quantity attempted in any modern country in such a short span of time. It included civil and voting rights for all, low-cost housing for the poor, rent and welfare for the still poorer and underpriviledged, better education for all, an end to slums in the cities, clean air and clean water, free health services for the elderly.

Had he been satisfied just to achieve that gargantuan program of physical and spiritual renewal for America and the American people he could have gone down in history as one of the truly great presidents. All that he dreamed of doing will someday be done by other men, if at a slower pace. But he tried to do all that and also impose his political ideas and his imperious will on people way off in Southeast Asia whom he did not know or understand. The methods which might work with Congress failed to work on the Vietnamese.

The strain of trying to remake America and the world as well was too much for the country and for the man. He had to hand over the presidency, as he did. He was exhausted by his superhuman efforts.

Everything Lyndon Johnson did was done in a big way. He failed big in Vietnam and failed to make all Americans love each other and work harmoniously together. His administration was marked by unprecedented turmoil and strife among Americans. Yet he stirred things up and revived old dreams. In the long run his country will be the better for having been driven, too fast of course, in the right direction by this overly ambitious and oversized human being.

[From the New York Times, Jan. 23, 1973]

A Personal Politician—Johnson Pressed for Great Society and the War in a Face-to-Face Style

(By Max Frankel)

He was larger than life, almost a caricature that he could never shake, but he never lost his humanity, because with Lyndon Johnson everything was really personal.

The war that overwhelmed his years in the White House was personal—a test of endurance against Ho Chi Minh, which he acknowledged having lost in the end, no matter who actually won the spoils of battle.

AN APPRAISAL

The Great Society was personal, because a lackluster education in his own life had saved him from shiftlessness and he deemed learning of any kind to be forever more the way to get ahead in this world.

The civil rights laws that he wanted as his monument were, in the end, highly personal, because they were drawn on the testimony of his Negro cook and her humiliations whenever she traveled without reliable food or lodging between Washington and the Texas ranch.

PERSONAL POLITICS

And even politics, the business in which he excelled and in which he took such great pride, was to him only a personal, face-to-face thing. If he had talked George Meany into acquiescence on a point, he thought he had won over all of American labor. If he had conquered Richard Russell on a budget matter, he thought he had won over the Southland.

In this fashion, he had been able to encompass every issue and every center of power in his years as majority leader of the Senate. But from the White House, even his huge reach fell short and his incredibly hard work and keen mind felt often overwhelmed.

Insecure despite his size and force, L.B.J. felt from the moment of John Kennedy's death in Dallas that the nation would never accept his Southern speech and rural manners as a replacement for the slain prince.

CLUNG TO KENNEDY MEN

So he clung to the Kennedy men and boasted of their Ph.D. degrees and he was afraid, even after his landslide election in 1964, to bring his own men to the capital.

And he could not comprehend, to the moment of death, how so many Kennedy partisans around the country could turn against him because of a war in which he felt he had taken the counsel of his predecessor's Cabinet and aides.

So he took it personally. He thought he saw a plot to promote yet another Kennedy and he thought he saw his fate as being merely the caretaker between two Kennedy administrations and he hated the thought and all who made it seem so real.

In his own mind, he felt certain that history would bring vindication:

A Southerner, who brought the blacks to the ultimate legal equality, with their own seat on the Supreme Court and a Court that ruled in their cause.

A conservative kept alive in politics by conservative votes for Texas interests, who made war on poverty an elaborate concern of the Federal Government.

A wartime leader who was governed to the end by respect and occasionally even compassion for his "enemy," who really wanted to extend the Great Society to the Mekong River and who systematically refused to whip the nation into an anti-Communist frenzy.

A backwoods boy of modest learning, who gave what seemed to him the disrespectful Establishment figures of the East the scope and mandate for great social works.

That is how he saw himself and how he expected to be seen in history. He confronted antagonists to the end, always hoping that reason and short ideals and long conversations—really monologues—could find a compromise for every conflict.

HATED CONFLICT

Although overcome by a bitter war and the hatreds that it spawned throughout the country, Lyndon Johnson remained a man who hated conflict and who feared confrontation for himself and country.

He made the Joint Chiefs of Staff testify in writing that he should really stand at the siege of Khe San.

He made all his diplomatic advisers commit themselves in writing to the advice that he really go to meet Soviet Premier Kosygin at Glassboro, N.J.

He won from his wife, Ladybird, a written recommendation that he ride into battle against Barry Goldwater in 1964 and that he should buck the battle for re-election in 1968. He never did want to stand alone.

"Well, Max," he asked an acquaintance on the morning after the surprise announcement of his intended retirement in 1968, "do you still believe in the First Amendment?" He thought free speech and free assembly had destroyed him, he believed in the First Amendment.

He wanted everyone with him all the time and when they weren't, it broke his heart.

[From the Wall Street Journal, Jan. 23, 1973]

Lyndon B. Johnson

It is impossible to do justice to Lyndon Johnson in the few moments between his death and the printing of this newspaper, if indeed it will be possible for any of his contemporaries to do justice to him ever. Above all he was a Texas larger-than-life picture, a man whose faults were parodies of his virtues.

The judgments of President Johnson this morning will be harsh, for it was his fate to preside over this nation in some of its most wrenching hours. It should not be forgotten, though, that much of this really was fate. He was handed the presidency, for example, three weeks after the overthrow of President Diem, an act that did much to make our commitment to South Vietnam an open-ended one, and an act that Vice President Johnson had opposed. On domestic policy, similarly, the Great Society may now seem the *reductio ad absurdum* of the liberal impulse, but in its time those who held that impulse celebrated it as their final victory.

None of which is to excuse Lyndon Johnson for any of his mistakes. It was he who sent the combat troops into Vietnam. It was he who engineered the ineffectual social programs. It was he who refused to face the reality of choice between the two in 1965. And most telling of all, it was he who lost the confidence of American society—which, as he and his defenders have suggested, may be some mark against that society, but is certainly a compelling judgment against the leader of any society.

For all of that, Lyndon Johnson was in his day a much maligned man. He was not the greedy imperialist, but a man who wanted to help the South Vietnamese and to defend freedom. He was not the evil-hearted manipulator, but a man who wanted to help the downtrodden in American society, and who, in some measure, succeeded. If he was the wrong man in the wrong place at the wrong time, he was a man who wanted to do good.

[From the New York Times, Jan. 23, 1973]

Lyndon Baines Johnson

The shocking news of the death of Lyndon B. Johnson will sadden every American, regardless of party, who reveres the Presidential office. Coming so soon and so suddenly after the loss of Harry S. Truman, who had been the only other living ex-President, Mr. Johnson's death leaves a sorrowful void in the American scene.

A giant in physical stature, overpowering in his personal approach, an intense and driving extrovert who nonetheless was in some ways a peculiarly private person, Lyndon Baines Johnson was the most paradoxical of all American Presidents.

Convinced for many frustrating years that no man from the South could be nominated, much less elected, in his lifetime, Lyndon Johnson nonetheless won the largest percentage of the popular vote ever accorded a Presidential candidate in modern history.

A man who, once in office, aspired only to educate the nation's young, feed its hungry, lift up its poor, promote equality and "end war among the brothers of this earth," finished his political career five years later, discouraged, trapped and bogged down in one of the most unpopular wars in the country's entire history. Many who had been his political friends and supporters forgot his magnificient contributions to the national good and held him almost solely culpable for the war he did not start but might have stopped.

A tempestuous and mercurial man, Mr. Johnson provided his critics with fuel to

spare. They said he was flamboyant, that he lacked "style," particularly in contrast to his graceful predecessor. They said he was a manipulator, as indeed he was, a "wheeler and dealer," which in a sense a President must be if he is to get action on his program. They said his talk was often crude, a charge sometimes made against Lincoln; that he was vain and, worst of all in some circles, "corny." There is enough on the record to substantiate such criticisms. But there is more than enough on the record to dwarf them in the final summing up.

Wrung out as the country was in the days following the assassination of President Kennedy, few Americans could have been unmoved by the emphasis in the new President's first speech to Congress: "We have talked long enough in this country about equal rights. We have talked for 100 years or more. It is time now to write it in the books of law."

He persuaded Congress to do just that, with the most substantial civil rights bill in a century. And to provide medical care for the aged, to give massive Federal financial aid to the elementary and secondary schools of the nation, to raise the minimum wage, launch a major housing program and make a start on what has now become a crusade to clean up the country's air and water. This and more—extraordinary legislative record as it was—was to be only the beginning of the Johnson advance toward the "Great Society," following in the tradition of F.D.R.'s New Deal.

Tragically, Lyndon Johnson had given little attention as Senate majority leader to the intricacies of foreign policy. He came to the Presidency imbued with the simplicities of the postwar years—specifically that there was a monolithic world power called Communism which had to be kept from spreading wherever it could be stayed without bringing on a major war.

A few months of limited military action in Vietnam seemed to him, as it had seemed to President Kennedy, one of the more obvious cases in point. And the quagmire that was to destroy thousands of American troops ultimately destroyed the political life of Lyndon Johnson as well.

Wanting almost patheticaly to be loved, as his hero Franklin D. Roosevelt had been loved in his time, President Johnson felt instead the sting of vilification. Tough and sinewy, he was yet sentimental and felt all the more what he conceived to be not principled differences, but betrayal by his friends.

Yet, sensitive though he was, he stood stubbornly by the course he thought was right—until the political instinct that was the breath of his life persuaded him that the majority he had enjoyed in 1964 had possibly evaporated. Then this man who had lived for power and enjoyed its exercise yielded it up with hardly more than a murmur. And even his severest critics conceded that nothing so became him in office as the leaving of it.

In this age of instant history, with the bitterness of the Vietnam war still unabated, the life of Lyndon B. Johnson will no doubt be recorded with more passion than perspective. Future historians should find that life as rich in achievement as in colorful contradiction.

[From the Washington Post, Jan. 23, 1973 (From an editorial in the Washington Post, Jan. 19, 1969)]

LYNDON JOHNSON'S PRESIDENCY

They have not been dull, the Johnson years, from the first crisis in Panama to Santo Domingo and South Vietnam, from the wild campaign of 1964 to the triumphs in Congress, the protests on the campus, the riots in the cities and the sudden abdication in 1968. And they have not been unproductive, in their rich yield of civil rights and social welfare legislation. More than anything, perhaps, they have been sad, in the sense that Franklin D. Roosevelt thought of Lincoln as a "sad man because he couldn't get it all at once—and nobody can."

Lyndon Johnson tried, you have to give him that. He brought more raw force and endless energy and craving for accomplishment to the office of President than anyone could ask. Where he succeeded, he succeeded big, in education and civil rights and all the rest. And while it can be said that he also failed big—by not being able to win his way in the war in his time, and by having to acknowledge such a division in the country that he could only carry on in his final year by foreswearing his candidacy for another term—not the least of his legacies to President Nixon is what he himself did to turn the war around and head it in the direction of a gradual American disengagement and a political settlement. Serious peace talking is to begin in Paris this coming week not so much because Lyndon Johnson halted the bombing of North Vietnam in October but because he stared down his generals last March and made the much more difficult decision to refuse them the massive reinforcement of American troops that they were asking for.

If this seems a somewhat negative legacy, there are more than enough that are positive. The list of legislative accomplishments runs on and on from the 1964 Civil Rights Act to rent supplements, voting rights, model cities, medicare, control of water pollution, immigration reform, job training, educational aid. And while some of this was the finishing of unfinished business, well begun before his time, some of it broke new ground. A landmark aid to education act, for elementary and secondary schools, cracked a constitutional and political impasse over church-school relationships, and it was brought into being not by past momentum or by parliamentary manipulation, but through the innovation and sheer determination of the President. . .

It is often said of Mr. Johnson that his trouble came from some incapacity to inspire, and thus to lead. He would say, on the contrary, that he was unjustly victimized by Easterners and intellectuals and liberals and the Kennedy people who scorned him for his regionalism and his roughness, his table manners and the twang of his voice. There is truth to both, and also irony, because the sad thing is that his origins are the best thing about him, the thing he has going for him whenever he is himself, and he didn't know it. Or maybe he just wasn't confident enough about it. Whatever it was, he tried to run the country in the way he ran the United States Senate and it did not work. He wheedled and cajoled and high-pressured and oversold, and seemed to be counting the legislation passed not so much for its contents as its bulk, and this wasn't what people were concerned about. They were worrying about casualty figures and about how the combat troops got to Vietnam in the first place and how they got involved in combat operation when the Secretaries of State and Defense had said they weren't supposed to; they were worrying about how it was all going to end and what it was doing to the country and whether it was worth it, and by the time the Administration got around to leveling a litle more on the subject it was too late, because the confidence was gone.

This isn't the whole story by any means but it was a big part of the story of how Lyndon Johnson lost his majority: If he was, like Lincoln, a sad man, he didn't show it and he didn't let it slow him; he was forever driving. He wanted nothing more than to succeed—and he did, in many, many ways. But he wanted support for the war and money for a bigger antipoverty effort and safety in the streets and housing for the poor and education for all our children and medical care for all the elderly and the love and respect of all the elderly people, and it wouldn't stretch. He wanted to get it all at once and Roosevelt was right: nobody can.

[From the Evening Star and the Washington Daily News, Jan. 23, 1973]

L. B. J.

He was six-foot-three and everything about him—his ability, his high sense of national purpose, his towering rages—seemed somehow slightly larger than life. Now he is gone at the age of 64, the second former President to die within a month.

The very memory of Lyndon Baines Johnson, thrust into the presidency by an assassin's bullet, is so freighted with partisan feeling that it must remain for another generation of Americans, immunized by time from the contagion of emotion, to assess fairly the man and to judge impartially his presidency.

When that day comes, when the Vietnam conflict—like the Spanish Civil War which stirred the conscience of another generation—has become an issue to bring the flush of passion only to the cheeks of old men, we believe that the man from the Pedernales will be counted among this country's near-great presidents.

Historians will record that the first Southern president since Reconstruction engineered the Civil Rights Bill of 1964 (the first in more than 80 years), outlawing racial discrimination in public facilites, employment and union membership, and giving the attorney general new powers to enforce Negro voting rights and to step up the pace of school desegregation. They will remember that, while he committed large numbers of U.S. troops to a conflict on the Asian mainland, he kept us out of nuclear war. This and much else in the fields of civil rights, housing and health did Johnson, who was perhaps the most consummate politician in modern American history, make part and parcel of our children's heritage.

And yet, at the last, he failed—or believed himself to have failed—withdrawing himself from contention in the 1968 election, leaving the country and his party weary and divided.

The roots of that failure are manifold and difficult to trace. Was it, as he insisted, too close to Appomattox for the country as a whole to accept and appreciate a Southern president, to believe in his vision of "the Great Society?" Was it inevitable, in a rising tide of bitterness and disaffection, that John F. Kennedy's successor should be struck down by the tumbling ruins of Camelot? Did he simply fail to gauge correctly the mood of the country when he vowed to nail that Vietnam coonskin to the wall? Was there some fatal and concealed flaw in his character which prevented him from dealing effectively with the burgeoning crisis of the races?

A little of each of these factors, perhaps, contributed to the downfall and bitterness of a man whose personality so vividly reflected the brashness, drive, optimism and acquisitiveness of his native state. Those good qualities and those defects which he brought to the presidency, in fact, may well have been the inevitable outgrowth of his state and regional heritage.

When time cools the passions of the moment, it will be remembered that he served his state and country, as congressman, senator, vice president and President for 31 consecutive years, and that if he did well by Lyndon Johnson, dying a multimillionaire, he also tried to do well (and often succeeded) by Texas and the United States.

To a certain extent, the measure of statesmen can be calculated by the passions they arouse among their contemporaries. Churchill and De Gaulle, for instance, were nothing if not controversial. In this respect, the

hostility of his foes makes the big Texan look like tall timber indeed among the scrub growth which forested much of the political hills of America in our times.

Lyndon Johnson was a big man and a big President.

[From the Washington Post, Jan. 25, 1973]

ONE MORE CALL TO REASON TOGETHER

(By Hugh Sidey)

Several months ago, when Johnson and his staff began planning symposiums for the Lyndon Baines Johnson Library at the University of Texas, it was Johnson himself who insisted on a session dealing with civil rights.

So a fortnight ago they came by jet and auto and bus through an ice storm to be in Austin with "the President" again, one of the few times in the last four years that the men and women who carried the civil rights banner for two decades had assembled. There were some new faces among them, but the focus was on men like Hubert Humphrey, Roy Wilkins, Clarence Mitchell and former Chief Justice Earl Warren. They showed up with more wrinkles than they used to have, more gray hair and a lot more discouragement. From the beginning of the two-day meeting it was plain that civil rights no longer had a clear national leader. Nor could anyone perceive any sympathy for the cause in the White House.

L.B.J. put on his tan rancher's twill and his cowboy boots and came in from the country, sitting silently through the first day's meetings, the fatigue growing on him. That night he went to the reception for the 1,000 guests. The strain took its toll. For Johnson the rest of the night was filled with pain and restlessness. His doctors suggested, pleaded, ordered him to give up his scheduled address the next day. He ignored them. He put on his dark-blue presidential suit and those flawlessly polished oxfords and came back the next morning.

He didn't take a seat in the auditorium but, with a worried Lady Bird at his side, watched the first two hours' proceedings on closed-circuit TV in an anteroom. Near noon he walked slowly to the podium. In a low but steady voice he talked eloquently for 20 minutes. "Until we overcome unequal history, we cannot overcome unequal opportunity," he said. "But to be black in a white society is not to stand on equal and level ground. While the races may stand side by side, whites stand on history's mountain and blacks stand in history's hollow. . . . So I think it's time to leave aside the legalisms and euphemisms and eloquent evasions. It's time we get down to the business of trying to stand black and white on level ground." Even in that short plea there was pain, and Johnson reached for one of his pills, munching in front of everybody. It was something he rarely does.

When he was done he acknowledged the applause and stepped off the stage to take a seat in the auditorium. Then squabbling broke out among the black factions, and one of the participants read an indictment of Richard Nixon and his administration.

Lyndon Johnson sat for a few minutes in the midst of it. Then, just as if he were back in Washington, he moved. The fatigue of the night before seemed to drop away, the old adrenalin machine pumping back into action. Going to the microphone, with his hands molding the air, he delivered one of his sermons on brotherhood and reason, flavoring it with one of those marvelous stories about a backwoods judge and the town drunk, reminiscences of when he arrived in Hoover's Washington and the bonus marchers were driven down Pennsylvania Avenue.

"Now, what I want you to do is go back, all of you counsel together," he said, "that soft, kind way, just cool and push off wrath, indulge, tolerate, and finally come out with a program with objectives. . . . There's everything right about a group saying, 'Mr. President, we would like for you to set aside an hour to let us talk,' and you don't need to start off by saying he's terrible, because he doesn't think he's terrible. . . . While I can't provide much go-go at this period of my life, I can provide a lot of hope and dream and encouragement, and I'll sell a few wormy calves now and then and contribute."

In the auditorium in Austin, the ovation that followed Johnson's appeal washed away the controversy, for a moment. People came to the stage and crowded around him as he tried to leave. They were all reaching for a bit of the old magic. But nobody got so much of it as Mr. Youngblood, a thin, aging black who used to wait on tables in Austin's ancient Driskill Hotel, where Johnson sweated out election night returns. The former President and the former waiter stood there for a few seconds gripping hands, and if any questions lingered about what Lyndon Johnson had tried to do for his country, they were answered right then.

L. B. J.: A RARE PERSONAL FORCE

(By Marianne Means)

WASHINGTON.—The nation buried last week a retired leader whose towering presence dominated much of American public life for more than two decades.

As Lyndon Johnson went to his grave with the national panoply earned by only 37 men in two centuries, his place in history is still a subject of violent argument.

But there is no dispute among those who knew him and dealt with him that the man himself was a rare personal force with almost no outer limits.

He could be anyone, or anything, at any time. He dominated every room he entered within a few minutes. When he told a humorous story, it was a long one. When he gave orders, they were short. Both received the same attention.

GENEROUS WITH PRAISE AND REVENGE

He did not hold any of himself back. It was all there for his friends and his enemies to see and to judge. When crossed, he got revenge if it took 30 years. When served well, he was generous with praise and with his pocketbook.

He was an excellent judge of human nature and it fascinated him endlessly. He loved to tease. He once owned a small automobile equipped to be driven into the water and float, and he delighted in alarming passengers as he plunged off the road into Lake LBJ.

He was a people person, a man who worked out his ideas by discussing them with others rather than poring over tomes of written theories. He never lost his common sense, and his sense of the common man.

He was smarter than almost anybody else, but he contrived to make them forget it. He always warned, "When anyone says he's a country boy, put your hand on your wallet." Then he would laugh and describe himself as a country boy.

His manners were often atrocious. He knew better, but he thought many of the social graces were superficial and he never liked anything to be superficial.

He thrived on adversity and great decisions. Author Theodore H. White once called him "a heavy-duty motor" that functions best when the going is rough but develops a cough when forced to idle.

IMAGINATION OR LYING

He was a ham. He loved play-acting, and the Presidency was a role he played to the hilt. Sometimes he got carried away with his own imagination, and the press refused to call it that but called it lying instead.

He loved plotting and scheming and making people and systems work and produce. He would have made a great puppeteer.

He could be more sentimental than any old maid. He never failed to comment on the beauty of the sunset over Packsaddle Mountain, near his ranch.

He had more intimate friends than most Presidents and they had earned their right to be in his circle by their fierce loyalty to him. So many friends wanted to sit by his coffin as it lay in state in the rotunda that several arguments ensued over who had loved him best.

In the beginning, he had been strong and brave and diligent. And the best politician on Capitol Hill.

In his last years, he had mellowed and thought more about real estate than affairs of state.

But he never lost that special quality of personality which made him unique and which made him a man who will not be forgotten.

SOME FRIENDS OF PRESIDENT JOHNSON (AS BROADCAST OVER THE CBS TELEVISION NETWORK, JANUARY 24, 1973)

WALTER CRONKITE. Good evening.

We are gathered here not to discuss perhaps the serious side of President Lyndon Johnson, but some of the inside of that thirty-sixth President of the United States as seen by men who were very close to him indeed.

May I introduce them to you: Hubert Humphrey, who was his vice president, as you all know, and now, again, senator from Minnesota; Dean Rusk, who was his, as well as President Kennedy's, secretary of State; General William Westmoreland, who was the chief of staff immediately after President Johnson and was, for most of President Johnson's career in the White House, the commander of our forces in Vietnam; and Harry McPherson, who was counsel to President Johnson, wrote many of his speeches, and, therefore, knew him intimately, of course, and a fellow Texan.

Gentleman, I suppose the cliche that one probably hears most about President Johnson and that lives, because those cliches which are true seem to, was that he was bigger than life. To many people he was their most unforgettable character. I'm just wondering if you remember—I'm sure you do—the first time you ever met Lyndon Baines Johnson.

Senator HUBERT H. HUMPHREY. I surely do. I remember him in the United States Senate. I was a very lonesome fellow there. I'd just arrived from Minnesota. Frankly, I didn't know anybody in the Senate. This town of Washington seemed a very different place than Minneapolis. And I was a member of the Eighty-first Congress, 1949. And I heard about a man from Texas that had just barely won an election down there. And his name was Lyndon Johnson. And very shortly after we were in the Senate, I believe, Harry, they were calling him "Landslide Lyndon" then . . .

HARRY MCPHERSON. That's right.

Senator HUMPHREY. And, of course, just to even have any jest about anybody—I was so up-tight about being in the Senate and not exactly the most popular fellow at the time having given that civil rights speech up in Philadelphia, as you may recall . . .

CRONKITE. Particularly with southerners, I would suppose.

Senator HUMPHREY. Yes, that's right. But Lyndon Johnson was the first man of what we called the southern senators, which I found later on did not properly classify Lyndon Johnson, that came on over to me, towering over me, just like, you know, you'd expect him to be, and looking down at me and asking me all kinds of questions about how I got elected and how it was to be mayor of Minneapolis—made me feel important. I liked him. I guess he was about the only one at that time that was really interested in my election. I remember that. I also was impressed by the fact that he knew Sam Rayburn, that he knew men that I'd

been told were very important, as they turned out to be—Dick Russell, Walter George and Tom Connally, Harry Byrd, Scott Lucas. He knew all these men. I didn't hardly know the way home, Walter, to be honest with you.

CRONKITE. But he also was a freshman senator. Did he come on with that air of importance then, even though he was a freshman, even as you were?

Senator HUMPHREY. No, it wasn't importance. He was just accustomed to it. As a matter of fact, in your initial greetings with Lyndon Johnson, he'd always seem kind of like he was being a little over-modest with you until you got to know him better. I'm sure all of you recall. He'd just sort of always kind of come up to you, kind of—just sort of kind of saddle up to you, you know, and not coming on strong, but showing interest in you.

And I always remember he kind of always looked at you, you know. It wasn't as if somehow that he was looking off in the distance. He was looking right at you and making you wonder whether he was analyzing you, on the one hand, or really had such a great interest in you that he was just really concentrating on you.

CRONKITE. That's a rare quality in Washington where most people are looking over your shoulder to see if there's somebody more important that they ought to be speaking to.

Secretary Rusk, do you remember your first meeting . . . ?

Secretary DEAN RUSK. Well, I had met Senator Johnson very briefly while he was a senator. But I first really came to know him when he became vice president. And I was deeply grateful for the effort which he and Lady Bird made to help out in our relations with other governments, not only here in Washington, but in his travels overseas. And it was obvious that we were dealing with a very strong personality.

I always marveled at the restraint which he showed as vice president, because he was an energetic and powerful man. You talked about his way of coming up to you in a quiet and deprecating fashion. But you and I know, Hubert, that when a man from the farm country starts out by saying, "Well, I'm just a simple farmer" . . .

CRONKITE. Watch out.

RUSK. . . . You'd better throw up your pockets . . .

Senator HUMPHREY. That's right.

RUSK. . . . because you know you're going to be had.

[Laughter.]

RUSK. But he was tremendously helpful as vice president, and I'll never forget it.

CRONKITE. How about you, General?

General WILLIAM WESTMORELAND. Well, I first met him when he was the Vice President. I was the superintendent at the Military Academy at West Point. And he came up to make the graduating address for the class of 1961, I met him at a nearby airfield. And we got in the automobile and proceeded to West Point. It took about twenty-five minutes. And the first comment he made—he said, "General"—he said—"I read my speech coming up in the airplane, and I didn't like it at all" . . .

CRONKITE. Had Harry written it?

General WESTMORELAND. I think Harry wrote it.

[Laughter.]

He thought it was a lousy speech. "And I'm thinking about casting it aside and speaking from my heart. And I'd like to have your advice." And I said, "Well, Mr. Vice President, I haven't read your speech, but I do respect your judgment. And if you think it's lousy, I'm sure it is. And I suggest that you follow your instincts and speak from your heart." And he did. And he talked about freedom; freedom in this country, freedom abroad. And at that time, of course, the young cadets and all of us who were pursuing a military career had ringing in our ears President Kennedy's inaugural address where this country would go to any extreme to protect freedom throughout the world. And that was the theme of his address, and it was an inspiring address from the heart.

CRONKITE. I'm going to ask in just a second, Harry, about that first remembrance of yours of President Johnson. But first of all, I'd like to talk about that speech matter now, because you did write some speeches for him. And I don't know which ones you wrote necessarily. I mean I don't recall offhand. You might be able to refresh my memory on some.

But it seemed to me that it was true about President Johnson that he was not very good at reading a speech, that he was tremendous when he went off on his own, like this speech. That was when he began giving that gesture, you know, and he pounded that point home with his left hand. And what did that do to you who wrote speeches for him?

MCPHERSON. Well, it'd make you feel wretched. You could never write as well as he could do extemporaneously. The best speech I ever heard him make was in Abilene, Texas to a group of REA district managers. . .

Senator HUMPHREY. Oh, he loved to talk to them.

MCPHERSON. And he loved them.

RUSK. Rural Electrification.

MCPHERSON. That's right. It was early one morning. We were having breakfast with them. He showed up about eight, and he ate two or three bowls of oatmeal as he talked to them. And I guess he talked for two hours. It was absolutely magnificent. He told them why they had a great deal in common with Walter Reuther and other people who wanted low interest rates. And for these farmer electrical managers out there in west Texas, that was rather strange medicine. But it was absolutely superb. It went on for an hour and a half. And no speechwriter could have ever matched it.

RUSK. Yes, it's extraordinary, because in a small, informal group Lyndon Johnson could be the most persuasive. . .

MCPHERSON. That's right.

RUSK. . . . and eloquent man in the world. For some reason that I will never understand, when he came onto television and on a formal occasion, he seemed to freeze up. But he was most persuasive in a group like this.

I remember being at a dinner in the White House one evening which he had given to the top business leaders of the country. Probably four-fifths of the economic structure of the country was represented there that evening. And I was sitting at a table with about eight of these people. And President Johnson got up and just talked. And after a bit one of my businessman neighbors turned to me and said, "My God, he's going to be elected unanimously."

He was absolutely—the difference between the man in a small group and the man in a formal occasion was really quite extraordinary.

Senator HUMPHREY. And the sense of humor.

RUSK. Yes.

Senator HUMPHREY. And every one of his stories that he would tell—and they all were related to the political life of a community or a state or a country. Every one of them had a punch and a twist. And he could mimic. You know, I've often felt that if I could have been his agent, I could have made a fortune. Because, you know, he could mimic anybody, and he could go through all the gyrations of different people that he knew. I wouldn't even dare tell you how—I'm sure he mimicked me many times. But I used to see him mimic some of my colleagues, you know . . .

VOICE. He did.

Senator HUMPHREY. . . . as he did. I know. I know. No doubt about it. But, you know, I think the reason that he was the way we're describing him is that he had a richness of experience. You know, he wasn't what I'd call a book politician. Everything about his political life was out of an experience. I mean when you talk about REA, that's one of the reasons that we got along good. We were against high interest rates. We both came from the Dust Bowl, so to speak. You know, we were kind of contemporaries of the Depression, admirers of Roosevelt, except, of course, he knew him, and all I did was know about him.

But when he saw farmers, he really felt at home with them, you know, and they could just feel the juices. You know, they knew it. And I used to just—oh, I used to just feel, you know, when I was over there at the White House in the vice presidency—I would think if he could just get out in the country and he could just talk to them like he's talking to us . . . .

RUSK. Yes. Right.

Senator HUMPHREY. . . . you know, because it was really a talent lost on that TV. But when he was with you, he'd have you rolling in the aisles, if he wanted, and crying the next minute, you know, and you talking about coming down like that. You remember when he used to do this? You'd go out of there; you'd feel like you were punctured.

[Confusion of voices.]

Senator HUMPHREY. And then he'd get right up on you. You remember, Walter?

CRONKITE. Yes.

Senator HUMPHREY. Well, you know, he was a virtuoso.

MCPHERSON. Well, that's it. When he was in a small group, he could use every device known to man . . .

Senator HUMPHREY. And he did.

MCPHERSON. . . . moral, immoral, ethical, appeals to country, appeals to self-interest, anything. And one of them would sink home. And he could tell it when it did. And then he would begin driving in on that one.

CRONKITE. It must have driven you people who were charged with trying to get the image across nationally in the television and the public speeches absolutely crazy that you couldn't capture this quality. And I'm going to ask you about that in just a minute, Harry. We're going to be right back.

CRONKITE. Harry, presidents are always difficult to talk to. After all, they're the President of the United States. They hold the biggest job in the world. And they become Mr. President. They're no longer Lyndon, or anything else.

How did he take to advice on his public image when you, as a speechwriter, and others around him tried to say, "Look, Mr. President?" Or did you ever try to say, "Mr. President, if you'd only do it this way?"

MCPHERSON. Well, I didn't render a great deal of advice about his public image. But you know, as in everything else, he was a complex man and a various man. On the one hand, he hoped to have a good public image and he was sensitive about it. He raised a lot of Cain with television and the press, because they didn't present him in an image that he wanted to have.

On the other hand, he was extremely realistic about himself. I remember sitting with him one night in the White House as he went over some photographs of himself with various public figures. And there, in one set of photographs, was what I used to call the John Wayne face. It was the face—I can't really make it. But it had the eyebrows going up and the furrows going up into a kind of inverted "V." It was a very sweet face and one that you couldn't believe if you saw it every day of your life. And he said, "Look at that picture." He said, "Have you ever seen anything more hypocritical in your life?" And I said, "No, I really haven't."

[Laughter.]

And he said, "You know, I can't stand that

fellow" that he was standing next to. "And everytime I'm with somebody I can't stand, I try to look all the more sincere. And everytime I try it, I look just the worse. And it's a bind I can't get out of. What do you recommend?" Well, what do you recommend to that, because he was really—he was showing how he really felt on his face. And people saw that. And the more he tried to look like a bishop, solemn and sincere and sweet, the more people mistrusted him, because it wasn't really the galvanic personality that he was, full of passion and emotion.

One of the unhappy things for me about this obituary period is that everyone will remember the goodness and the humanity that he had in great measure. But no one will talk about the other side of it, which was also part of his tremendous personality, the capacity to rage and the capacity for mimicry and great fun that was there as well.

CRONKITE. Well, it was said that he was very hard to work for! Was that right?

MCPHERSON. Yes and no. He could be very rough on you. He certainly was on me on occasion. On the other hand, he was the most exciting man you can imagine to work for. He was the fastest intelligence I've ever known. He was probably the brightest man I've ever known. He was not an intellectual. He had almost no interest in things in themselves. He had an interest in things insofar as they led to something. But he could put together information and collate it faster than any human being I've ever seen. And that was very exciting to work for.

CRONKITE. Well—excuse me.

RUSK. I think it's important to say about Lyndon Johnson that he had a passion for performance rather than words. I remember two days after he became President. He picked up the phone and called me and said, "What are we doing about the Alliance for Progress?" And I gave him about two minutes of a typical State Department answer. And he said, "I'm not talking about that. What are we doing? What contracts are we letting? What projects are underway? What are we doing?" And if you'll look at the record, you'll see that the activities of the Alliance for Progress just went up like that as soon as he became President.

He was always snapping at our heels. He was a tough man to work for. But he was tough on himself. . . .

Senator HUMPHREY. Right. Very definitely.

CRONKITE. I mean his personal relations with those of you, particularly you three—I think, Harry, your relation was rather special, being right in the White House family. But you were secretary of State, you were vice president, you were commander . . .

Senator HUMPHREY. But I was senator with him too, and that's another dimension . . .

CRONKITE. You were what?

Senator HUMPHREY. . . . When you're senator with him, he was a different man as senator than when that President/Vice President relationship. That's an entirely different relationship. When you were over there in the Senate with him, and when he wanted to get something done, and when he'd call you into his office and he'd explain things to you and he'd tell you what his plans were, and you know that there was more to it than he was telling you, and all that relationship—that was when you were on a first name basis. He was an incredible performer.

You talk about demanding things, you know. His sense of timing in the legislative was superb. Lots of us would be wondering, you know, well, when is this going to happen. And we'd think that he wasn't going to do anything and he was dragging his feet. I had a big battle with some of my ADA liberal friends one time about Lyndon Johnson. This was when he was in the Senate. Was he a civil libertarian? And I remember President Johnson, then Senator Johnson, Majority Leader, masterminding a maneuver in the Senate where he put together—Harry, you may recall this—four bills that had been reported out of a committee, all of which would have destroyed the Constitution, any one of them. And every one of them would pass on their own. And cleverly enough, he permitted every one of them to pass and then moved to put them all together in one packet. And he said, when you go out to kill the snake with the hoe, you've got to take its head off. You remember how he used to talk?

RUSK. Yes.

Senator HUMPHREY. And down—those bills went down the drain.

In the meantime there must have been at least fifteen of my closest liberal friends that said, "You see, I told you. He's betraying you. You've been leading us down," because I would say, "No, it's going to work out all right. You've got to have some faith. He promised me. It's going to work out all right." And each day it looked like it was getting worse and worse and worse. And finally the hour came. And by the cleverest of maneuvers—I still don't know how it was done. But he was a master at the legislative process and the rules of the Senate. Before anybody knew what had happened, those four separate bills, Walter, were in one package, and before you knew what had happened on that, there was a roll call vote. And when the roll was called, the bills were dead as McNamara's goat.

And he walked out and he says, "Tell those liberal friends of yours to have a little faith in me, would you?" You know, he always used to do that. And I said—you know, he used to call my buddies bomb throwers. And Harry, I guess I was kind of a bridge between that part of the Senate and President Johnson.

MCPHERSON. You were.

Senator HUMPHREY. But I trusted him. I used to get mad at him, though. I'll be honest with you about that. You know, he'd work you over sometimes and leave you wondering what was going to happen.

CRONKITE. Was that true when you were vice president?

Senator HUMPHREY. Oh, yes. There was a different relationship. If he were applying the penalty to me then, it was not verbally; it was that I might not just be around for a little while.

But I'll tell you what would happen. All I needed was one news story attacking me for something that I did or didn't do or making fun of the Vice President. Then the next day I'd get a call, and over to the White House I'd come. He'd put his arm around me, and he'd say, "Hubert, let's have lunch." Or we'd have breakfast. And I just tell you, all I needed to do was to have some reporter just give me a real—you know, a real shot, just give me a tough one, and he'd come to my defense; he'd pick me up. And from there on out for at least a week, I'd be the best friend he had, I guess, around there. He'd tell Dean and all of them what a great vice president I was.

Then after that was done for a while, why, I'd maybe be out to pasture a little bit. But my relationship with him was a good one. I can honestly say—and I'm somewhat of a student of vice presidents. I've tried to study the history of them. I think that it's very difficult to be a vice president and a president and to have a friendship. Lyndon Johnson himself told me that he couldn't recall any president and vice president over any extended period of time that ever were able to preserve their friendship. When he asked if I wanted to run on the ticket with him in '64, he said, "You know, I hate to ask you, because we're such good friends." And he said, "I'm afraid that if you run with me and we're elected," he said, "that friendship's apt to dissolve."

And he reminded me of Truman and Barkley. He said, "You know, there were no two better friends. But within a year after the election, that close relationship kind of dissolved." And we talked out what the possibilities were—this is before the election of '64—and what the ground rules would be. And I think I came out of those four years—I believe I can honestly say that we preserved not only a respect for each other, but a warm friendship.

CRONKITE. You had something of an advantage in that Lyndon Johnson himself had been a vice president, so he knew . . .

Senator HUMPHREY. Yes, he remembered that . . .

CRONKITE. . . . the other side of the coin.

Senator HUMPHREY. He remembered that.

RUSK. You know, it's a part of the political game in Washington that the staff people around the President get a lot of fun out of poking at the vice president . . .

Senator HUMPHREY. Yes, they do.

RUSK. But this does not represent the attitude of presidents toward their vice president. President Kennedy had the greatest regard for Lyndon Johnson. And Lyndon Johnson had the greatest possible regard for you. But that is not the conventional wisdom, because you always have these fellows at the second and third echelons who think it's fun to snipe at a vice president.

CRONKITE. Well, but you see, the press does serve a purpose. They wrote a little nasty piece and you got invited to the White House.

Senator HUMPHREY. Well, listen, Walter, I never ever called him to ask him to see him but what I got (word unintelligible) right quickly from him.

CRONKITE. I'm going to ask you, General Westmoreland, in just a moment, if I may, about your relations with the President at the other end of the phone line where you were most of the time in Vietnam with the communications system that you had. Let me ask you that when we come back in just a minute.

CRONKITE. General Westmoreland, we were talking about whether President Johnson was a tough boss. You must have heard some salty language occasionally, I guess, at the other end of that communications line to Vietnam, didn't you?

WESTMORELAND. Walter, I think it's generally accepted that President Johnson called me on the telephone once or twice a day. But as a matter of fact, I've never talked to President Johnson on the telephone from Saigon to Washington. Although he liked to talk to many people and communicate with a variety of individuals whose opinions he respected, he always dealt with me through the chairman of the Joint Chiefs of Staff, General Wheeler. Now I talked to General Wheeler frequently. And frequently I would get messages from General Wheeler which would reflect the questions of the President. On a few occasions, I received communications over the teletype from the President, but they were normally in terms of, say, giving me bravos and a vote of confidence.

Now, on the other hand, when we conferred in Saigon or in Washington—I saw him frequently—and this was quite different. When I came back to Washington—and I normally stayed at the White House—I would usually get a message, enroute back, asking me to be his guest at the White House. Well, normally I'd made other plans, but I changed them rapidly. And many times Mrs. Westmoreland and I were his guests at the White House. And he would call me at 11:00 at night, and he said, "Westy, have you gone to bed?" And I said, "Well, Mr. President, yes. But I'm not totally asleep." And he said, "Well, can you come down to my bedroom." So I would go down and sit at his bedside, and the televisions would be going—and he had usually three or more in his bedroom—and we would talk. Or he would call me up at seven o'clock in the

morning. And he says, "Are you up yet?" And I said, "Well, not quite, Mr. President." And he said, "Well, when you get up, please come down and have breakfast with me." So I would get up rapidly and I would go down, and we would have breakfast together. And while having breakfast, he would make half a dozen telephone calls. He would listen to three televisions. He would be conferring with several staff aides. Joe Califano or Cy Vance would be coming in on various matters. And it was a three ring circus. I mean how he could juggle so many balls in the air and keep them all sorted out was absolutely remarkable.

And of course, frequently we met in Hawaii. And Dean, you remember the famous conference we had at a critical stage of the war in February of 1965. And after two days of conference, he made a very emotional speech, which ended up—he says "The time has arrived to pin the coonskins on the wall." Now, this meant something to the Americans, but the Vietnamese were there themselves, and I'm not sure they knew what a coon was, much less a coonskin.

But he was a very energetic man. He projected himself very well. And when you were with him, there were no dull moments.

CRONKITE. Did he ever get angry with you in those personal meetings at his bedside or at breakfast? Was he ever . . .

WESTMORELAND. No, not really. The only time he got angry with me was after the Manila Conference. And Dean, you were there. It had been concluded, and a general agreement had been arrived at between the various nations associated with our effort. It was about eleven o'clock at night. And we were discussing a visit by the President to Vietnam. I recommended Cam Ranh Bay. He said when can you see me. And I said, "Mr. President, it's going to be awfully difficult for me to make the necessary arrangements and provide the security in less than twenty-four hours." And he pounded the desk and he shook his finger at me, and he said, "If you don't want me to come, I won't come. And if I'm going, I'm going tomorrow morning, or nothing."

So I flew back that night. I made arrangements. He arrived on schedule about eight o'clock the next morning, and I had a representation of all the units there at Cam Ranh Bay with a cover plan so that nobody knew where they were going. But they saw the President, and he had a great visit.

CRONKITE. That must have been one of the best quick movements of troops since Patton wheeled the Third Army around in the Battle of the Bulge.

WESTMORELAND. Much quicker than that. [Laughter.]

RUSK. You know, there's one point, Walter, that affects Lyndon Johnson's relations with General Westmoreland. It was not just a great personal confidence and trust in General Westmoreland; but it was a very strong feeling on the President's part about the ordinary GI in the field. That fellow out there, that dogface, was always on his mind. And what he wanted to do was to give that fellow as much support and as much of a chance as possible. And that had contributed a lot to the relations between you and President Johnson.

CRONKITE. It speaks something of the concern he had throughout the Vietnam war . . .

RUSK. Right.

CRONKITE. . . . and expressed in every personal conversation about the concern for that man.

RUSK. Right.

CRONKITE. We're going to be back in just a moment for more discussion among the friends of Lyndon Johnson.

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CRONKITE. We were talking to General Westmoreland about the fact that the one time you recall his blowing up was over a matter of personal arrangements of getting to Cam Ranh Bay. Was that—was that typical of the President? Mr. Secretary?

RUSK. Well, he was very demanding about his personal arrangements. After he became President after the tragic assassination of John F. Kennedy, he was, among other things, under great pressure from the Secret Service not to announce his movements and his presence in advance. And that gave him a reputation of being impetuous. But he did believe that it was up to the State Department to make arrangements with foreign presidents and potentates and princes in a way that would make it possible for him to conduct his business, as he saw it, in the most efficient fashion. And sometimes that got to be very difficult. And he wouldn't let up.

VOICES. Yes.

[Laughter].

RUSK. So that he was demanding on that kind of thing. No question about it.

CRONKITE. I, you know, had had the great privilege of interviewing him several times since he left office for television, a series we did. And I've selected a couple of quotations from his own words here that I'd like to get your comments on, if I might. I don't want to make any[thing] formal out of this. But on himself, he said once to me: "It's been very clear to me that I had certain serious disadvantages which would ultimately preclude my completing my term as President as I would like to complete it. Those disadvantages I thought were upbringing, brought up in a poor setting; limited education advantages; geography, where my mother was born, and the prejudices that exist; and, in general, a general inability to stimulate, inspire and unite all the people of the country, which I think is an essential function of the presidency."

Well, that's a terrible statement, it seems to me, in a way, indicating a feeling of inadequacy, a feeling of snobbery on the part of a great number of our people, and perhaps of particular groups. Did he have an inferiority complex, do you think, Harry?

MCPHERSON. Well, I don't know. I think . . .

CRONKITE. I mean, because the vision, of course, is just the opposite, basically: a superiority complex, if anything.

MCPHERSON. Well, he had some. And as it was said earlier, he had a feeling of coming in after a very glamorous President, John Kennedy, one who was very much beloved in the Georgetown salons, and that he was something of a bumpkin in their eyes. He had that feeling.

But I thought maybe he misread it. And my own view was that Johnson was not a Texas provincial. He was a Washington provincial.

VOICE. Yes.

MCPHERSON. This was his town. This was his province. He knew this place like the back of his hand. There is probably no more sophisticated human being in the Twentieth Century in the life and affairs of Washington, D.C. He knew the representatives of power on the Hill, in business and labor, in government, and all the rest of it.

But that's an essential world for a President to know. But if you concentrate on it totally, you may not be able to pick up the vibrations from out there in the states. And I think that was really the provincialism that made it very difficult for him to convey himself to the people.

Senator HUMPHREY: And don't you think that was true, Harry, particularly in that formative period of his life as a congressman and a senator. When he was the Majority Leader in the Senate, you know, you couldn't get him to travel a great deal. He masterminded the Senate. And that is a task unto itself. At that time, ninety-six, then soon a hundred, individualists. Sometimes we're called prima donnas. But he was able to make that place work and do it both with a Democratic president and a Republican president.

I do think that he had a feeling about, though, you know, that in Washington a Texan from the hill country—I think he maybe even talked himself into that a little bit. And because of the way he worked in the Senate, where it isn't how much oratory you have and it isn't how suave you look; it's how you know how to put the mechanics, the pieces together. The operation of the Senate is like putting a jigsaw puzzle together to get a picture or a pattern. It doesn't make any difference whether you can whistle or sing, or charm or charisma. That stuff doesn't—that just doesn't go there, I mean, because that's a limited clientele that you have. . . .

CRONKITE. That dog doesn't hunt. . . .

Senator HUMPHREY. That dog doesn't hunt. That's right.

[Confusion of voices.]

Senator HUMPHREY. So this is where he got—this is where he got his reputation with what we call the media or the press corps.

Then, as you say, when he went to the White House as vice president, you don't make many points as vice president, to be frank about it, with the media. You can't. You're supposed to be second man. You're not front man. You're not making policy pronouncements. You are following the outlines and the guidelines of an administration, and the President is up front.

So during that period of time of the vice president, when he was immensely loyal to Kennedy—and I'm glad you said that, because he really was. And I know, because I was then the majority whip of the Senate. And the things he got us to do over there and how he worked for President Kennedy day after day to get [the] program moving [sic].

But when he became President, that feeling, both on the people that observed him as well as himself, existed for a while. I used to say, just like you said, if we could just get him out there. If I could have brought him out to Minnesota for the Minnesota Editorial Association and turned him loose, like we were talking about, in one of these free-for-all, free swinging, ad lib commentaries of his, he'd have had them in the palm of his hand. He really would have. Whoever he brought into the White House at those dinners—and, by the way, he didn't just bring the rich and the mighty. You know what I liked, Walter. He'd bring in those friends of his from down in Texas. He'd bring in somebody he met in a war. He'd bring in somebody that he just met someplace, and they'd be sitting right there with the big shots, you know . . .

CRONKITE. Well, a Pakistani camel driver.

Senator HUMPHREY. Yes, this is how the man was.

MCPHERSON. Right.

RUSK. Let a man from Georgia point out that provincialism turns up in all sorts of places . . .

Senator HUMPHREY. Yes.

RUSK. I talked to a graduate student some weeks ago who is writing a Ph. D. thesis on the politics of a southern accent. Now there are places in our country which will accept any accent in the world—German, Oxford, Russian, Yiddish—but not a southern accent, because they think that anyone with a southern accent somehow's a little stupid.

Now one of the things that's going to surprise the historians when they get full access to those thirty-one million documents in the Johnson Library will be the intellectual power of this man. But this was concealed . . .

Senator HUMPHREY. Yes.

RUSK. . . . from some elements in our society by his southern accent and his homily and cornpone stories.

And so I think he was aware of this . . .

Senator HUMPHREY. Yes, that's right . . .

RUSK. . . . because it is a fact in our society. And this derives from some of the flamboyance and the reactionism of some of the Senators we've had in the last hundred years in our Senate. But this, I think, he felt was a handicap. And who can say that he was wrong

CRONKITE. You said that he was loyal to the Kennedys . . .

Senator HUMPHREY. Yes.

CRONKITE. Senator, but do you think there might also have been some jealously, some resentment, perhaps, on the other hand, of the Eastern establishment, the Ivy League, and so forth?

Senator HUMPHREY. Yes, I really do. I think that was there.

But I'll tell you something else, Walter—that in terms of the way that that group loved President Kennedy. President Kennedy was an extremely charming and charismatic man, a remarkable person; very different from Lyndon Johnson. They were very, very different personalities. But, of course, they complemented each other.

But I always—I always felt that in order to understand President Johnson's kind of politics, you really had to be the kind of a person that had been in the political arena and kind of just wrestled around in the pit of politics. Then you understood it. His politics was glandular, in part, as well as a bright mind and an experienced political person, and with intellectual depth.

I think that the one thing that impressed me first after President Kennedy's assassination—I never will forget sitting with him that night, Harry, when he came back here at Andrews Air Force Base. He called a few of us in. We went over to the Executive Office Building before he went to his home. And he said to us—in a very sober mood, he said, "Look, I not only need your prayers"; he said, "I need your help." He said, "I'm tellin' you, this is—this is—this is more than I can do." And he said, "We've just got to carry through now." And he told us—you know, it really was a kind of a moving, sentimental moment. And he was a very sentimental man.

And then he set out to make sure that every single program that President Kennedy had advocated was passed. And I tell you that I can remember—I think I had more intimate conversations with him about things like this in those days than any other time. I believe he really relied a great deal on me, Harry, if I may say, when I was the majority whip. He thought I'd get things done. I was a can-do man for him. And he used to say to me, "We're going to put through, Hubert, everything that John Kennedy put up to that Congress." He said, "That's going to be my tribute to him. That's what we're going to do. We're going to get everything done." And I'm tellin' you, we did. That's when you really saw the man who was determined to prove not only his loyalty, but his dedication.

Then when he went into this own term of office, it was another thing, but with the same kind of dedication and the same kind of demand.

CRONKITE. Did he do that, in carrying on the Kennedy program, as a matter of conviction, that he believed that program was right, or as a matter of sentiment, as a matter of the man who had picked up the fallen leader's baton?

Senator HUMPHREY. Both. Both. I think it's fair to say that Kennedy, President Kennedy, relied on Lyndon Johnson a great deal in the formulation of the legislative program, from what I knew at that time, because we used to come to those breakfasts, Harry, you know. And I sat right on the side of the table alongside of Vice President Johnson on those Wednesday morning breakfasts. And that's where we really caulked out the legislation and who would do what. So that President Johnson was looked upon, in his vice presidency, by President Kennedy as his chief legislative arm, because Johnson knew so much about the Congress.

CRONKITE. You know, we think of him in domestic policy, but not so much in the foreign policy, and certainly not when he was vice president.

You told me a story, Mr. Secretary, about the Cuban missile crisis. And I'm going to ask you about it in just a minute when we come back.

RUSK. All right.

CRONKITE. Secretary Rusk, you told me once that you thought that President Johnson, when he was vice president, had a considerable influence in the Cuban missile crisis.

RUSK. Yes. That story is not likely to be told because it is not in the documentation. But throughout that crisis, he would come over and sit in quietly and informally with the various task forces that were considering the alternatives that were in front of us. He would spend a lot of time with Secretary McNamara and myself and with President Kennedy. His practical wisdom was injected into the discussions in a way that was very important.

And one thing that I will always remember with the greatest gratitude was that the two coolest men in town during that frightful crisis were John F. Kennedy and Lyndon Johnson. His role in that crisis, I suspect, will probably never be told. Maybe someday I'll tell it, but it is a very important role.

CRONKITE. You know, he was thought of as being mercurial in many ways. But was he, in most crises, cool, would you say, Harry?

MCPHERSON. Yes, I think he was, the ones that I saw him in the last two or three years of his administration. I think he was cool.

Senator HUMPHREY. Remember that Six Day War crisis, Dean, down in the situation room . . .

RUSK. Yes.

Senator HUMPHREY. And the hotline I guess had been used.

RUSK. The Israeli Six Day War.

Senator HUMPHREY. Yes. The Six Day War in June, '67. And the fleet—he had removed the Sixth Fleet from along the coastline there at Haifa in Israel and got it back deeper in the Mediterranean . . .

RUSK. Right. Right.

Senator HUMPHREY. And apparently Mr. Kosygin, or one of the Russian leaders, had sent a rather sharp message, that either tell the Israelis to stop or do this, or we'll take whatever action, including military action. And I happened to be at that meeting. That was a very important meeting. And quietly, he told—maybe it was you or Secretary McNamara, one of you—he said, just order the fleet to turn around. And he didn't send back any message to Kosygin, per se, at the time. The Russians understood that. He said, "They'll understand that better than anything I can say." And that fleet that had been coming out of the Mediterranean was wheeled around and didn't need to go very far. And the Russians cooled right away. And there was just no doubt about it. And he was as cool, as they say out home, as a cucumber. He just did it.

Those were days that I saw him face up to tremendous pressures. There were pressures from all sides, domestic and international.

RUSK. He didn't react emotionally . . .

Senator HUMPHREY. No.

RUSK. . . . to major issues of war and peace. As a matter of fact, he had an extraordinary capacity to put himself in the other fellow's shoes in order to try to understand what was eating on the other fellow. And he was very deliberate and calm about the major decisions which he had to make in those foreign policy questions which involved the possibility of war.

Now there were times he had to act quickly. For example, in the Dominican affair. About two o'clock in the afternoon, our ambassador in the Dominican Republic said, "We don't need the Marines. Don't worry about it." And then about two hours later, the ambassador came in and said the situation has changed completely; we've got to have the Marines.

Now, you've got to decide that within a couple of hours. You can't send out a bunch of people to do Ph. D. theses on the question. So that when he had to act, he acted. But he always thought about them and did not act in any kind of emotional response.

I mean, this notion that he was moved by hubris, that is false pride, or machismo, or things of that [sort], is utter nonsense. Utter nonsense. Because he recognized the responsibilities which rest upon a President of the United States.

Senator HUMPHREY. You remember the admonition that he gave every one of us? You mentioned that today in the ceremony at the Rotunda. "To cool the rhetoric." Didn't make any Cold War speeches. The detente that we're talking about with the Soviet Union didn't happen just last week. That was a long process through Lyndon Johnson's administration. Dealing with President de Gaulle: constant care. Always I remember that the whole idea was that somehow or another that if you get the rhetoric around [sic], it'll be easier to talk sense; if you'll cool down the verbiage, the adjectives and the rhetoric.

I know that the preparations for those SALT talks were very dear to him, as you know better than anybody else.

RUSK. Well, you'll see from the public record that he didn't let us attack Chairman Khrushchev . . .

Senator HUMPHREY. No.

RUSK. . . . or later Mr. Brezhnev or Mr. Kosygin, or Ho Chi Minh, or President de Gaulle, or anyone in personal terms, because diplomacy has learned over the last three hundred years that that's not the way you settle problems.

CRONKITE. Well, clearly, he was a man who was concerned about what people thought of him. What man isn't, and particularly a man in a leadership role? And it's only human to have been. But he did seem to occasionally carry it to the extreme. He carried those polls around with him all the time, and it didn't take a drop of the hat to show them to you.

[Laughter.]

But he must have felt . . .

RUSK. I bet Hubert carried some polls . . .

Senator HUMPHREY. I'll tell you, when you're an elective officer, there's nothing that's more cheering to you than a favorable poll.

CRONKITE. Well, I was going to say—I was going to say that, did he—among you, did he worry about his image? Did he ever say I'm so sick that I'm misunderstood? Did he wear this on his sleeve? Harry?

MCPHERSON. No, not with me. I don't think I ever heard that. I know that people were brought in from time to time to fix it up, to work on the television image and the rest of it. And surely many of the things he did were done to improve the image. But I never heard him worry out loud about it being a bad image.

CRONKITE. Did the Vietnam war—you know, everybody—the common knowledge is that—the common feeling is that it was the Vietnam war that brought him down, that everything else worked well and that this did not. You gentlemen were part of the policy that did that. Do you agree with that assessment? I mean, do you think he was misunderstood on the Vietnam war?

RUSK. This war was his great agony, because there would not have been, General Westmoreland, a single American in uniform firing a weapon at anyone in Southeast Asia if Ho Chi Minh had kept his men and his arms in his own country.

President Kennedy made the basic decision to intrude American forces out there. And President Kennedy was faced with the terrible Berlin crisis of '61, '62, with the unspeakably dangerous Cuban missile crisis, and the situation in Southeast Asia. President Kennedy and President Johnson didn't want these situations. They were presented to them.

The Vietnam war stood in the way of so many things that Lyndon Johnson wanted to accomplish as President of the United States. And no one wanted peace more than he did.

As a matter of fact, we went into every capital of the world looking for peace, to the point where some of our experienced friends in Europe said to me, "Look, you're trying too hard. You're going to create misunderstandings in Hanoi. You better be quiet for a while . . ."

Senator HUMPHREY. I heard the President of Burma tell that directly to the President of the United States. I don't know whether you're supposed to talk this openly or not. But when the President said to him, "What am I doing that's wrong?"—when President Johnson [sic]—he says "You're asking for peace." And he said, "That's interpreted in our part of the world as a sign of weakness." And President Johnson said, "Look, I'm President of the United States. Our people want peace. And that's what I want."

RUSK. Exactly.

Senator HUMPHREY. I mean, I remember being taken upstairs that one evening when there was a state dinner. Wasn't it President . . .?

RUSK. Ne Win.

Senator HUMPHREY. Ne Win, yes. And we were talking about it.

RUSK. But this idea that somehow Lyndon Johnson looked upon himself as a broncobuster, all-out to go gung ho to do somebody in the eye, is a complete misunderstanding of his approach to this problem.

CRONKITE. Well, thank you very much, gentlemen, all friends of Lyndon Johnson.

I'll be back in just a moment.

CRONKITE. We've been talking with some friends of Lyndon Johnson. There was one side to the President that all of us knew, or that everyone who met him was vividly aware of, I'm sure, and that was his great pride in his country.

He told me this story during an interview at the LBJ Library. And I think it's an appropriate way to close this hour.

President LYNDON B. JOHNSON. I heard a president of the University of Minnesota tell this story the other day about the Frenchman that was talking to an Englishman, and he said to him, if I had not been born a Frenchman, I think I would have liked to have been born an Englishman. And the Englishman was—responded and said, well, I think if I had not been born an Englishman, I would have wished to have been born an Englishman.

And that's the way I feel about my country. I'm so glad I was fortunate enough, lucky enough, to be born an American, with our system; that if I had not been born an American, I just really believe that, knowing what I do about this country and its system, I would have wished to have been born an American.

CRONKITE. Thank you, Mr. President.

ANNOUNCER. "Some Friends of President Johnson" was recorded earlier tonight in our CBS News studios in Washington.

THE NUCLEAR SUMBARINE (SSN 692) "OMAHA"

Mr. CURTIS. Mr. President, on last Saturday, January 27, the keel was laid for a nuclear submarine at Groton, Conn., and the name of that new submarine will be the *Omaha*.

It was a memorable occasion. Mrs. Roman L. Hruska authenticated the keel and did so most graciously. My colleague, Senator HRUSKA, was the principal speaker and his remarks were both outstanding and inspiring.

Mr. President, I ask unanimous consent to include in my remarks the important speeches made on that occasion. These include the remarks of Mr. David S. Lewis of the General Dynamics Corp.; Secretary of the Navy Mr. Warner; Vice Adm. H. G. Rickover, U.S.N., in introducing Senator HRUSKA; a telegram from Adm. E. R. Zumwalt, Jr.; and the speech of my colleague, Senator HRUSKA.

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

REMARKS BY DAVID S. LEWIS

Senator Hruska, Mrs. Hruska, Secretary Warner, (Admiral Zumwalt): The men and women of General Dynamics are extremely gratified to have been selected to play a major role in the important 688 attack submarine program.

There is no project more demanding of excellence in technology, in workmanship and in management than the Navy's nuclear submarine construction program.

We believe the able, experienced team at Electric Boat is fully up to those challenges.

We know they are fully dedicated to providing the Navy the highest quality, most reliable ships possible—and on schedule!

It is a real pleasure to be on hand to recognize the first major milestone in the construction schedule of the Omaha.

Our next speaker and I were here last summer for the laying of the keel of the Philadelphia—we were also together on this stand two years ago when he was our speaker at the launching of the Archerfish, for which his daughter was the sponsor.

That had to be the coldest day in the history of the world—

Thank goodness our people are now doing a better job of planning for these events!

So we are glad to welcome back this morning one of Electric Boat's old friends, Secretary of the Navy John Warner.

Secretary Warner has a long and important record of service and leadership to the Navy and to the Nation.

He began his Navy service as an enlisted man during the World War Two, and later served as an officer during the Korean conflict.

In 1971—at the request of President Nixon he again answered the call to public service and left a distinguished career in corporate law to become undersecretary of the Navy. He served in that position with distinction, and last May fourth was named as Secretary of the Navy. He has proven himself a man of action and determination in making certain that the Navy will remain our first line of defense.

Ladies and gentlemen, I would like to introduce the Honorable John W. Warner.

Mr. Secretary.

REMARKS BY SECRETARY OF THE NAVY WARNER

The last time I spoke here the temperature was four degrees and I promised the audience I would limit my remarks to four minutes. The temperature today is 20 degrees but I'll not exercise the 20 minutes.

I'd like to go back to the year 1939. Two historical events occurred that year—one a tragedy—the sinking of the USS *Squalus*, a submarine, off the coast of New Hampshire. We have the privilege of having with us today the master chief petty officer who made the dives to rescue the men from that stricken ship, for which he was awarded the Congressional Medal of Honor, Master Chief Petty Officer William Badders, please step forward.

Also, in the year 1939, Senator Carl T. Curtis of the State of Nebraska began his public service in the State of Nebraska—Senator Curtis.

Joining us here today from that friendly state where they don't mind cold weather at all are Congressman and Mrs. Thone.

Congressman McCollister, who represents the District of Omaha, was unable to be here today so the best he could do was send his bride, Mrs. McCollister.

Now the Hruska family, although from the heart of our nation have had a long association with the Navy. We are proud to have Victor Hruska who served in the Navy in World War II.

Senator Hruska's son, Quentin, who is a carrier aviator and last but not least, Jana Hruska. We started together in 1960 in the service of then Vice President Nixon, and we have served together since then in one way or another in the public service of the United States.

I have used my 3½ minutes and I'll save just one to introduce our principal speaker.

For the past 20 years he has devoted his entire life to the people of the United States. He started in the Congress of the U.S. in 1952 and in 1954 he was elected to his first term as U.S. Senator. In my judgment, he impresses all of us with the great qualities that we in the east have come to associate with those who pioneered the west. I am proud to introduce our principal speaker—Senator Roman Hruska.

INTRODUCTION OF MRS. ROMAN L. HRUSKA AND MISS JANA L. HRUSKA BY VICE ADM. H. G. RICKOVER

I am happy to introduce two charming ladies, Mrs. Roman L. Hruska, who will authenticate the keel for the Omaha; and Miss Jana L. Hruska, her daughter and maid of honor.

But first I would like to speak about Senator Hruska, a man for whom I have much admiration.

Over the span of his 20 years in Congress, he is a man who has had the character and intellectual capacity to gain and retain the respect of his colleagues and of his constituents. Combined with diplomacy and an absence of formality and pomp, he has the ability to talk with men and women, the military, scientists, and colleagues, in their own language—a gift indispensable to one in his profession.

The casual observer, considering that he began his working life so modestly, and rose to his present high position, might say that fortune smiled on him and that he was lucky. This is not the case. Anyone familiar with his background knows that he has earned his position and his responsibilities by application and industry, by force of mind, character and integrity.

There is no affectation in him, no false humility. He knows his capacities, and takes pride in them. He looks on them as a trust, of which he must be the diligent and faithful steward.

He acts on principle, not on personality. The people to whom he responds, are those who have ability, and put it to full use, who are daunted neither by toil nor difficulty, but give themselves without reserve to the work in hand.

He is a prodigious worker. Nothing less than full mastery of any subject he tackles will satisfy him. Although a man of intense convictions, he is open-minded, and not beyond persuasion until the last word has been spoken. He understands that it is the task of a leader to determine which difficulties will resolve themselves, and which will spread their rot when shoved under the rug.

In an age when prolixity is becoming a substitute for conviction, his speeches are to the point, and his positions are firm. He has been a consistent supporter of a strong national defense. He knows that in today's troubled world, if one might err in judgment, it is better to err on the side of strength than on the side of weakness.

Mrs. Hruska, whose maiden name was Victoria Kuncl, is a native of Omaha, where the Senator has also lived his adult life. She was educated in the Omaha public schools and the University of Nebraska. Her studies included a semester at the University of Nebraska Medical School. She was married to Omaha attorney Roman Hruska in 1930. They have three children and four grandchildren.

In the early days of our country women and men worked hard together to clear the land, to build a home, to grow food, and to raise their children. Out of this partnership grew many of our great men. Today our environment has changed, but the fundamental nature of this partnership has not. Victoria Hruska understands this. Her fine children and her active help in the Senator's election campaigns bear witness to this. Besides her busy family, this gracious lady finds time for gardening, and participation in the Congressional Club, the Republican Congressional Wives Club, and the Red Cross unit of the Ladies of the Senate.

Miss Jana Hruska, who will assist her mother today, is another example of the contribution to public service of this remarkable family. This lovely young lady, who graduated from the University of Nebraska, now occupies a position in the executive branch of the government.

I introduce to you Mrs. Hruska who, with the assistance of Jana, her maid of honor, will authenticate the keel of the Omaha.

WASHINGTON, D.C., *January 27, 1973.*

MR. DAVID S. LEWIS,
Chairman of the Board, General Dynamics, Groton, Conn.:

I deeply regret that I am unable to be with you as you lay the keel for the U.S.S. *Omaha*—the newest addition to our Navy's nuclear attack submarine forces. I am sure, however, that the presence of Sec. Warner and other Navy representatives along with the distinguished citizens of the State of Nebraska will more than make up for my absence. I am especially pleased that Mrs. Hruska will be there to authenticate the keel and that her husband Sen. Hruska has consented to make the major address for this historic occasion. Please extend to all of those present my deep appreciation for their attendance and my apologies for not being able to be with you.

Warm regards,

E. R. ZUMWALT, Jr.,
Admiral U.S. Navy

REMARKS BY SENATOR ROMAN L. HRUSKA

Mrs. Hruska and I, together with all Nebraskans present, are highly pleased and delighted to participate in the keel laying ceremony for the nuclear powered attack submarine, *Omaha* (SSN 692).

All of us, in fact all citizens of Nebraska, are proud and honored that the name chosen for it is that of the Metropolitan City of our State.

Keel laying ceremonies, followed by launchings and commissionings, are always important, historical events. It means another factor of strength and force in our Navy, which has developed a proud tradition and history.

The City of Omaha, itself, also has played a substantial role in the development of our Nation. Situated on a site visited by the Lewis and Clark expedition, Omaha early became and continues as an important river port and supply station for the West. It is called the Gateway to the West. It grew to be the fourth largest rail center in the country. It is the world's largest livestock market.

Within a few miles to the South is found Offutt Air Force Base, on which Strategic Air Command Headquarters and the Joint Target Command are located. These are all so closely allied to the Naval forces and the kind of ship for which these keel laying ceremonies are being held.

The SSN *Omaha* will be the third ship to carry the name of our City to the sea. The first *Omaha* was laid down in 1867. She adequately served the Navy for 23 years before being decommissioned.

The second Omaha was launched in 1920. She made many ports-of-call in her peacetime cruises. During World War II, she played a significant role in stopping Nazi blockade runners.

Now comes the third Omaha.

I understand that when completed, there will be more science packed into her keel than in any previous warship. There is a saying among submariners that "there is room for everything aboard a submarine except a mistake." Advantage is being taken of this adage because it will have the most advanced anti-submarine warfare capabilities.

It will add greatly to our powerful force for peace in this troubled world.

It will be built and commissioned at a highly opportune time of our history. It is a period in which timely, adequate, and firm progress must be made toward a military capability second to none; a military strength equal to the challenges that could arise.

There are some people who do not subscribe to this goal.

They point to the cease fire in Vietnam; to the great successes of President Nixon in reducing world tensions and reaching better understanding with the Soviet Union and Communist China. They point to other improvements in good will among nations, of true enlightenment and conviction of all nations that war is no longer thinkable as a matter of settling disputes. Hence, that there will be no wars.

Such arguments are used as a basis for heavy reductions in our military resources and power. Their cry is that such reductions are safe and in order. Moneys intended to them should be used for purposes of peace.

History should remind us, however, that isolationism and weakness are not guarantors of peace. Just the opposite is true. In the 1930's and again following World War II, this Nation withdrew within its borders in an attempt to forget the rest of the world and concentrate on our own domestic problems and priorities. The results of those two periods of isolationism were not happy: the events of 1941–45 and 1950–53 should be grim reminders of the fruits of weakness. The United States, in the decade of the 70's, cannot afford another such experience.

That is President Nixon's strong conviction and commitment. Here are his recent words:

"For the United States to abdicate its leadership role in the world, or to attempt to meet its responsibilities through good intentions alone, without the backing of a strong defense, would be one of the greatest tragedies of history.

"Let us never go down that road. That is the road which led an unprepared America into two world wars earlier in this century."

My studied belief is that a vast majority of the American people have rejected the proposal that our first place military position should be reduced or impaired.

They know we cannot afford the alternative. They know that a philosophy dedicated to weakening America and ushering in a new isolationism—an isolationism that would cut us off from our friends and give our adversaries an overwhelming military superiority—is unacceptable.

A weakened America, vulnerable to military blackmail and without confidence and trust of other nations of the Free World would never be able to face down another country seeking to force its will on others.

The sea occupies three-fourths of the area of this globe. To insure peace and security for our Nation and our allies, we need the protection that our nuclear submarine fleet provides. It is my sincere hope that the Omaha will never be called upon to use her nuclear might. But, it is also my firm conviction that without the Omaha and other submarines like her, our chances for peace would be far less than they are now.

The question we as a nation face today is simply this: Can we ever be left in peace if we do not actively assume the burden of keeping the peace? A strong U.S. military posture is the source of stability in this world. It is essential to peace.

A WORLD ASSEMBLY ON AGING

Mr. CHURCH. Mr. President, last September, at the 25th Annual Conference on Aging of the Institute for Gerontology at Ann Arbor, Mich., I proposed that a World Assembly on Aging be conducted in the next 3 to 5 years, possibly under the auspices of the United Nations. Since that time, I have received must solid support for the proposed assembly, which would assist each nation in determining what kinds of commitments, must be made in a world in which an ever-increasing segment of the population lives in a lengthening number of years which we now call retirement.

A world Assembly on Aging would also serve as a prod for encouraging the United States to develop and implement a national policy on aging—something which had been hoped for with the White House Conference on Aging of 1971. The momentum which had been generated by that conference now needs recharging.

When we consider that between now and 1985, the overall world population is expected to grow at a rate of about 11 percent, while the older population is forecast to gain 24 percent, it becomes increasingly more imperative that we direct attention to resolving the fundamental issues created by this phenomenon which I have termed the "retirement revolution."

The beneficial effects of a World Assembly on Aging upon the developing nations should not be underestimated. With their older population expected to grow by more than 38 percent by 1980, they too will eventually be engulfed by the retirement revolution. The World Assembly on Aging could help the developing nations prepare for the social and economic changes produced by a longer average life expectancy.

The time has come for the United States and other governments to actively pursue a course of cooperation taking positive steps leading to the world convocation.

As I have stated, I am pleased by the solid support which I have been receiving and wish to call specific attention to the high importance placed upon the proposed World Assembly on Aging by the nationally known writer in the field of aging, Theodore Schuchat. A syndicated article by Mr. Schuchat, entitled "Conference on Aging a Necessity," appeared on December 10, 1972.

Mr. President, I ask unanimous consent that the article by Mr. Schuchat be printed in the RECORD.

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

[From the Sunday Record, Dec. 10, 1972]

CONFERENCE ON AGING A NECESSITY

(By Theodore Schuchat)

Sen. Frank Church of Idaho wants the United Nations to convene a world assembly on aging to deal with the retirement revolution he says is already a major force in industrialized countries.

Chairman of the Senate's Special Committee on Aging, Church believes that this retirement revolution eventually will engulf the developing nations. A world assembly on aging in the next three to five years, he says, could help them prepare for the social and economic changes produced by a longer average life expectancy.

A recent UN report cited by Church showed that there are 24 million more people of age 65 or older on Earth now than there were five years ago. By 1985, there will be 270 million older people in all, or 70 million more of age 65 or more than there are today.

HIGHER THAN AVERAGE

Compared to other age groups, the proportion of older persons is rising at a much faster rate around the world, according to the U.N. study. Between now and 1985, overall population growth is expected to be about 11 per cent, while the older population will grow by 24 per cent.

In the less developed nations, overall population growth is forecast at almost 28 per cent between 1970 and 1980, but the estimate for the older population group is more than 38 per cent.

"The United Nations report," Church says, "says the world has an aging population, with social and economic implications which are not yet clearly understood."

RETIREMENT AND YOU

A major task of a world assembly on aging, Church suggests, would be to involve governments in a cooperative venture which would help each nation determine what kind of commitments must be made in a world in which larger and larger segments of the population live to be older and older.

Such a global meeting would also serve selfish interests of the United States, the youthful senator believes.

"For one thing, a world assembly on aging would be an additional prod for development of policy on aging—something we had hoped that the White House Conference (of 1971) would do," he explained.

NEW ENERGY

"The momentum of that conference needs recharging. If the United States had to prepare for an international meeting at which it would develop its commitment on aging in conjunction with other nations, we would be more certain that a national policy would not only be formulated, but implemented," he said.

A critic of the Nixon Administration, Church argues that an international meeting on retirement problems would help the United States develop real perspective on its failures and achievements.

He wants the United States and the Soviet Union to add aging to the agreements they have made to cooperate in research against cancer, heart disease, and environmental health problems. In contrast, President Nixon vetoed Congressional action to create a national institute on aging and to expand the work of the U.S. Administration on Aging.

Church was a leader in the fight to enact a larger increase in Social Security benefits than the Nixon Administration proposed.

Describing the recent 20 percent increase as only modest, he declared that the Nixon Administration has no policy at all on retirement income.

Both advanced and developing nations have to decide a lot of questions regarding their elderly population, Church maintains, adding that a world assembly could help them deal with such questions as these:

How much of an economy, for example, should be committed to retirement income?

If skills become obsolete in middle age within industrial nations, what will be the effect upon employment status of those affected, and what effect will unemployment or underemployment have on their social insurance payments for retirement?

What if nations around the world follow one after the other in establishing lower compulsory retirement ages? How will the lower number of productive years affect tomorrow's retirement?"

In developing nations, what effect upon the elderly will result from the widespread move of younger people from the rural areas to the cities?"

The big industrialized nations have tried to answer these questions in different ways, but not always with success. They need some better answers, Church suggests, and the developing nations have a chance to avoid making mistakes when facing the same questions.

WHITE GOLD ON TREASURE MOUNTAIN

Mr. MOSS. Mr. President, an article appeared this past weekend in the Washington Post celebrating some of the manifest attractions of the State of Utah. Our high mountain country has been famous for a number of years for its excellent skiing, but as the article pointed out, it is not merely the steep slopes and superb snow that is drawing so many visitors to Utah. For these visitors have discovered a State possessing great natural beauty, a colorful frontier history, warm hospitality, and a thriving cultural life.

Those of us who are natives have known about the fine qualities of our State for some time, and as my colleagues know, I have extolled these qualities on this floor on more than one occasion. I am pleased now to find that the word is spreading.

Mr. President, I ask unanimous consent that the Post article by Mr. Peter Tonge be printed in the RECORD.

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

THEY'RE SHOVELING WHITE GOLD ON TREASURE MOUNTAIN

(By Peter Tonge)

SALT LAKE CITY.—It used to be the silver from within the mighty mountain that drew people like a magnet to the area. Now the snow that mantles it proves the attraction.

They call it Treasure Mountain. In its day the tunnels that cut deeply into the rock face poured out more than a billion dollars worth of minerals: Silver for the most part but lead, zinc, and a little gold, too. It is estimated that an equal value of minerals still lies hidden there, but the dollars now flowing into Park City, as the one-time mining town is named, come from those who love to ski the snow-packed runs that snake down the mountainside.

They come from all over to this and 10 other mountain resorts near the great Salt Lake during a six to seven-month season that starts around Thanksgiving and extends through May. That's what makes this Utah region such a great one.

There is excellent skiing terrain, a fabulous snowfall that in some areas tops 36 feet most years and frequently goes as high as 50 feet. All of it is within 60 minutes driving time of the international airport here.

Park City, for instance, is just half an hour away from downtown Salt Lake City, or from the ballet, the theater, or whatever other reason might make you prefer a city-center motel to a mountainside lodge.

Just as the miners followed the soldiers to these mountains a century ago, so the skiers followed the photographers in more recent times. When the miners moved out in the early years of this century, the picture takers, apparently, moved in. They were pioneers, too, in a still infant industry, who sought to capture the grandeur of the mountainside on film. As some tell it here, skiers saw the photographs, then hastened out to schuss the slopes.

In more recent years, photographic forays were followed by helicopter-hopping ski trips to the more remote peaks until the enterpreneurs put in the ski lodges and lifts on some of them. While this took some of the excitement out of the sport for the hardy (and wealthy) few, it opened up more of a skiers' paradise for the many.

Even now helicopters gyrate up to any one of a hundred otherwise untouched peaks to provide powder skiing and precipitous descents for the really skillful.

Nestling in a wide spruce and aspen valley, 8,000 feet up but still 3,000 feet below the top of the many ski runs, lie two of the three resorts I visited recently: Alta and Snowbird, one of the oldest and one of the newest of this nation's ski resorts; the classic and ultramodern side by side. The very contrast adds to the enjoyment of skiing in the area.

Alta, like Park City, was once a bustling mining town of 5,000 residents. It was one of the first in the area to swap mining gear for ski equipment. They were skiing there more or less regularly in 1930. Eight years later the first chair lift was installed.

Now there are many such comfortable mechanical rides to the top and a bewildering array of routes for the exhilarating, whistling descent to the canyon floor. Some of the European-style lodges here include breakfast and dinner with their accommodations; a homey touch which adds to the old-fashioned charm of the place.

Snowbird, a decade in the planning, has just entered its second year of operation. The single-dwelling sprawl has been ruled out in this development. Planning is such that as little of the natural terrain as possible is disturbed. Trees are covered at all times, and the whole village, if such it can be called, blends with the surroundings. It's a quality, luxury development that many suggest may become the pattern for future resorts in the U.S.

Park City has base facilities that are as impressive as any in the area and plans for improvements which will see $100 million spent during the next decade. The old mining town itself still exists, and its main street, rising fairly steeply up a mountainside, remains much as it appeared at the turn of the century.

ENGLISH FOR FOREIGN LANGUAGE SPEAKERS

Mr. TAFT. Mr. President, one group whose special educational needs are often overlooked is the large non-English speaking community found in many of our urban areas. In the Nation's Capital, however, a volunteer project has made wide-scale English language instruction available on television to the foreign-speaking population. At a time when the President is asking that we keep expenses down, this project, in which concerned

broadcasters and educators have joined together to provide a free service to the many in need, indicates that the American tradition of helping one another continues to be a viable solution to pressing social problems.

An article entitled "English for Foreign Speakers—A Television Solution," written by Michael R. Kelley, Ph. D., professor of English, George Mason University, Fairfax, Va., describing this project which he coordinated and produced, was published in the November 1972 issue of Audiovisual Instruction. I ask unanimous consent that this article be printed in the RECORD.

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

ENGLISH FOR FOREIGN SPEAKERS—A TELEVISION SOLUTION

(By Michael R. Kelley)

Although television long ago established itself as a valuable medium for in-school instruction, neither educational nor commercial television has ever been fully utilized as a vehicle for in-home general audience instruction. Perhaps the basic reason for this lies in the nature of adult education. Television is an expensive medium, and the adult student's educational needs are generally too limited in scope or fragmented in need to warrant the high expense of a mass medium. Additionally, teachers have tended to be wary (rightfully in some cases), of any use of television which would completely eliminate their day-to-day function in the educational process.

There are currently hundreds of thousands of non-English speaking residents in America's major urban centers who desperately need instruction in English as a foreign language. In most cases, they are strongly motivated, but with the present shortage of adequately trained teachers and available facilities, many still have no learning opportunity. Surprisingly, with only one or two exceptions in the past decade, television has not played a significant role in solving this pressing need. Yet, as a recent Washington, D.C., project shows, it does provide a very efficient solution.

In the metropolitan Washington, D.C., area, where the estimated number of non-English speakers is 120,000, the need for such a mass educational effort was so great, that once it was brought to their attention, there commercial VHF broadcasters (the three network affiliates in the city), (WMAL, WTOP, WRC) were willing to donate their services without charge. Working with them was a team of volunteer curriculum specialists, teachers and actors, who in conjunction with the D.C. Public Schools, produced "Time for English"—a 90-program course in English as a foreign language, which went on the air March 15, 1971. These 45 hours of color television language instruction carried a total price tag of under $5,000—not one penny of which was spent on the actual production and broadcast of the television programs.

METHODOLOGY

In order to make the entire series valuable to speakers of various nationalities and language backgrounds, the "direct method"—now considered to be the most efficient approach to language teaching—was utilized throughout. In this approach, English words and phrases are associated directly with their meanings, rather than with a word or phrase of similar meaning in the student's native language. The student learns a controlled number of basic sentence patterns, and is taught (through imitation) how to interchange various linguistic elements of the same class, and to alter the order of elements within the structural frame to achieve variations in meaning.

In an effort to gear the instruction to each individual student's personal needs without the use of a classroom teacher, the total curriculum of 90 half-hour lessons was divided into three competency levels of 30 lessons each, and one level was assigned to each volunteering station. The curriculum was designed so that each level would be a complete unit in itself, with its own teacher or team of teachers, while at the same time dovetailing into the next higher level, where repetition for learning reinforcement was built in. This reduced the total financial burden carried by any one station, and each, on a beginning, an intermediate, and an advanced level. Production and broadcast schedules were synchronized so that the first program in each of the three levels went on the air the same day, and at roughly the same time. By this device, which can work just as efficiently with one television station and three time periods per day, the student with a competency level equal or close to that of the intermediate or advanced level did not have to wait for lessons at the lower level to be broadcast before starting his or her own instruction. Instead, he or she simply tuned to the channel broadcasting the level most suited to the individual need.

All three of the levels lasted for six weeks, and were broadcast five days per week. At the end of each six-week period, each station repeated its particular level. This provided every student with an additional personal choice to either repeat the same course level for review, or to move to the next higher level by simply tuning to another channel. The opportunity for the student to repeat each course level more than once, without waiting for the entire 90-lesson series to be broadcast, was considered to be a necessary requirement for efficient language learning. By this basically simple method, television was able to easily and economically meet the requirement.

Although language acquisition is best achieved by listening and speaking, a limited amount of written instructional material can also be helpful in speeding the learning process. Accordingly, exercise books were written to accompany each of the instructional levels. Large quantities of the books were printed with District of Columbia government and private foundation money, and at $3,000 were the largest single expense item for the entire project. The books were free to any student who wanted them, and to minimize the logistical difficulties in supplying them to the home-viewing students, the various branches of the D.C. Public Library system and selected branch libraries in the surrounding suburbs were used as points of distribution.

In addition to their use as an instructional supplement, the books were originally conceived of as a means to measure the students' learning achievement. The initial intention was to have the student pick up the exercise books one level at a time, and to return one completed book to the library when the book for the next higher level was picked up. Motivation for the return of the books was to have been a certificate of completion for each level, issued by the D.C. Public Schools. Before the books went to press, however, it was felt that the task of correcting them and mailing the certificates would be an overly burdensome job for our volunteer staff. It was also thought that the books would have a greater educational value if they contained additional reference material, and the students were allowed to retain them as study tools. Thus, the certificate program was abandoned and we incorporated into the exercise books such reference items as conversion tables for weights and measures; a table converting centigrade to Fahrenheit temperatures; a full set of paradigms for the verb "to be" and the personal pronouns; pronunciation charts using the phonetic alphabet; and even the words to some American folksongs for cultural reinforcement purposes.

The use of the exercise books still provided an excellent means of determining student interest and participation in the programs. By the first day of broadcast, the original printing run of 6,000 books was depleted, and additional printings were necessary. The beginning level programs are still being broadcast at the time of this writing, largely because of the continuing demand for the books at this particular level. This continuing response to the programs has also resulted in a grant which is being used to make them available to other cities through an instructional television library.

TECHNIQUES

The nature of the television medium presented certain problems in the production of "Time for English." Since the programs were taped in advance, there was no sure way of determining if the pace of each day's lesson was appropriate to each home viewing student's needs. There also was no way of knowing when or if a student needed further practice and drill in a particular segment of lesson material. Each of these problems was partly overcome by trying out lessons before taping with a small group of students enrolled in a class at the same level in the one school of adult English education operated by the D.C. Schools. Appropriate revisions in the lessons were made based on student reactions at these run-throughs. Teachers and curriculum writers also drew on their own extensive classroom experience to anticipate student difficulties by providing additional time in the lessons for the more complex linguistic structures. To further handle student problems, a telephone question line was established and students were encouraged to call in during announced hours each day with specific questions about the morning's lesson.

By its very nature, language learning requires a great deal of active student participation to be successful. Since nothing can be deadlier than a television teacher looking intently into a camera, pretending to "listen" while the student at home repeats a drill, a small group of native English speakers was used off-camera in the beginning and advanced levels to fill the pauses, and do the repetitions along with the students at home. In this manner, they also provided an additional repetition of the material for the viewers. In the intermediate level, a class of foreign-speaking students was used in the studio for the drills. They provided viewer interest, but no additional reinforcement in standard English pronunciation.

In the beginning level, where the student's working vocabulary is particularly limited, a team teaching approach was adopted. It was found that members of the team working together could convey the material far more efficiently than a teacher alone in the studio could. In the advanced level, where language competency is much higher, and variety in presentation is essential, the team approach also worked well. Here the teachers played word games, sang songs, and divided up the lesson presentation for each day among themselves. In both levels where team teaching was used, it worked to counteract some of the impersonality of television, by providing the student at home with a tutorial kind of experience, with more than one teacher involved in his or her personal instruction.

EVALUATION

It is, of course, impossible to become proficient in a second language after only 45 hours of television instruction. An adult needs one or two years of constant training at the rate of six to eight hours per day to become fluent. This was not the goal of the "Time for English" series. Rather, the programs were designed to introduce the student with little or no knowledge of English

to a sufficient number of grammatical patterns and vocabulary items to allow him or her to function at a minimal level of linguistic performance, and to supply a source of additional controlled practice for those who were already somewhat familiar with the English language. Any amount of controlled language instruction is better than none at all, and the surrounding English speaking community in which our adult students are living can be relied upon to constantly provide the additional total submersion and practice that is a prerequisite to language acquisition.

The solutions we adopted in using television in this project are, of course, not the only ones possible. They appear, however, to have achieved their intended results. Although no formal determination of the series' overall success has yet been made, the hundreds of telephone calls and the numerous letters which the series has received and continues to receive, indicate that it is working well as a teaching vehicle. A number of informal interviews with students who have viewed the entire three-level series also pointed up that all had gained fluency in English from the televised lessons. In all of the responses to the programs, there was strong emphasis on the fact that "Time for English" had supplied an effective source of English instruction when no other was available.

Our efforts clearly indicate that television can be an effective means of adult education in this critically pressing social and educational area. The circumstances would seem to warrant additional efforts in this field by both commercial and educational broadcasters in cooperation with local educators in America's other urban centers.

COMPLIMENT TO SECRETARY OF STATE ROGERS

Mr. SPARKMAN. Mr. President, Joe McMurray, who had long service in Washington prior to becoming president of a college in New York, has written a very interesting and thoughtful letter to the New York Times, which was published on January 10, 1973.

The letter is entitled "The Importance of William Rogers." I believe that Senators will find it interesting and thoughtful, as I did.

I ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, Jan. 10, 1973]

THE IMPORTANCE OF WILLIAM ROGERS

To the EDITOR:

It is now a generally accepted conclusion that Secretary of State William Rogers, if you believe the news stories, editorials and columns, is the Secretary in name only. As a somewhat expert observer of the national Government and a long-time Congressional staff member and Government administrator and educator and because of having known and observed him since he was on the staff of the Truman National Defense Committee and its successor, the Mead Committee, I believe history will reveal him as one of our best Secretaries.

Admittedly, Mr. Kissinger is the person to whom the President looks for advice on our immediate critical international problems and is his international troubleshooter. But as a practical matter it would be impossible to act in Mr. Kissinger's role and administer a department that is responsible for the relationship with some 160 nations of the world plus the day-to-day operational problems of that farflung and enormously important department.

No one, including Mr. Kissinger, can be expert on some 160 nations and their relationships with the United States and with all of the other nations of the world. To have a Secretary who thinks or acts as though he were (some accused Secretary Dulles of this) could be disastrous. The best kind of Secretary is one who can facilitate the flow of expert, grassroots information and advice, listen judiciously and act and decide accordingly. What may be a minor problem with some nation around the world today could, if not properly handled by the Secretary or someone in whom he has confidence, develop into a critical and world-shaking problem in the future.

The Middle East is by no means a minor problem, but Secretary Rogers deserves major credit for the more stable situation that exists there, as compared to when he came into office.

Bill Rogers was one of the most respected and well-liked staff members among many who worked in the Congress. As Attorney General under President Eisenhower, he maintained excellent relations with the Congress, the judiciary and the legal profession, and the morale in the department was very high. He still communicates more with the Congress and individual members than any other Secretary and is affectionately regarded by a large majority of the members on both sides of the aisle.

William Rogers as Secretary of State, as Attorney General, as a very successful and distinguished lawyer has never acted or treated any of his old acquaintances, such as myself, any differently from the way he treated them some 25 years ago. I am happy he is our Secretary of State and hope he continues to serve in that capacity.

As a citizen, incidentally a Democrat, I would understand and be happy if at some subsequent time he accepted an appointment to the Supreme Court if it were offered to him, as he could continue to serve our nation well in that important role for many years to come.

JOSEPH P. MCMURRAY,
New Rochelle, N.Y.

DECEMBER 30, 1972.

DEFENSE BUDGET ALSO NEEDS PRUNING

Mr. PROXMIRE. Mr. President, in a year of Government-wide austerity, the Pentagon is seeking a whopping $85 billion for defense spending. This is excessive.

I agree with many of the cuts the President has proposed in the civilian budget. I support cuts for urban renewal and impacted school aid. I would cut the budget for the overly stuffed National Institutes of Health which the President has not touched. But the fat defense budget should take its share of the pruning, too.

Procurement, and research and development are going up at a time when DOD claims that manpower costs have been stabilized at 56 percent of the defense budget.

NAVY DOMINATES FUNDING

A look at recent statistics of defense spending shows that the Navy is getting the lion's share of the increase for defense. The Navy budget has risen $6.5 billion from fiscal year 1968 to fiscal year 1974 while the Army's budget actually decreased and the Air Force registered only a modest gain.

The Navy has been plagued by a number of inefficient or unnecessary programs including the new billion dollar aircraft carrier the CVN–70, the Litton LHA assault ship scandal, the delayed DD–963 destroyer program, and huge cost overruns in general.

Two other Navy programs specifically bear watching in the new budget, the Trident submarine and the F–14 airplane.

TRIDENT REALINED

The new $1.7 billion request for Trident is twice the size of last year's funding. This new request would also effect a major change in long-term Navy plans for the program.

Under the new plans, development of the Trident 1 missile would be stretched out, to coincide with the planned 1978 completion date of the first new Trident submarine. And the Trident 1 would then be deployed directly in the Trident submarine and not retrofitted in Poseidon submarines as proposed last year.

As I stated last fall when I first learned of this proposed change in Navy plans, the net effect is to kill a sound missile retrofit program which has attracted widespread congressional support and to move full steam ahead on a dubious submarine construction effort which Congress nearly rejected a year ago.

These new plans may save $140 million in fiscal 1974 Trident 1 missile R. & D. funding, but they could add billions to the long-term costs of the Trident program.

In addition, where would we be if there is a serious threat to the survivability of our sea-based deterrent in the late 1970's if delays are encountered in the crash Trident submarine construction effort and if Trident 1 missile development remains tied to the submarine completion date.

FEWER F–14'S NEEDED

The Navy budget also includes $572 million procurement dollars for the purchase of 48 additional F–14's, despite the fact that it is still unclear whether the 48 planes approved last year will be built by Grumman under its Navy contract.

The overall status of the F–14 program is certain to receive detailed scrutiny by the Congress. While many aspects of the program's status remain unclear, two points can be noted now.

First, the 48 planes proposed for the budget is a much smaller buy than the 88 planes assumed for fiscal 1974 in previous Navy planning. If the Navy still proposes to buy a total of 313 F–14's, this stretch in the schedule for the proposed buy is certain to raise the costs of the total program at least 10 percent, even if Grumman is held to the terms of its present contract.

Second, the new budget contains funds for a Marine Corps purchase of 10 F–4J's, the first installment in a total Marine Corps buy of 138 F–4J's over the next 4 years. These F–4J's are designed to replace 3 squadrons of F–14's previously planned on by the Marine Corps and included in the previously proposed 313 aircraft Navy F–14 buy.

The effect of these changed Marine Corps plans on the Navy's F–14 plans should be speedily ascertained by the Congress. They should permit a substantial reduction in the total size of the Navy's proposed F–14 buy, perhaps to

the point where Grumman might be able to complete production without experiencing cumulative losses which would force it into bankruptcy in the absence of a Navy bailout.

Mr. President, I ask unanimous consent that the editorial from Washington Post of January 31, dealing with the defense budget, be placed in the RECORD at this point.

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

THE PROPOSED OUTLAYS FOR DEFENSE

Minus funds for the Atomic Energy Commission, the Defense portion of Mr. Nixon's proposed outlay for fiscal 1974 comes to around $79 billion. This figure, as the President and his spokesmen have rightly pointed out, represents a much lower proportion of the overall federal budget and of the GNP than defense spending did when he assumed office. They also observe that in constant 1974 dollars, the total figure represents a lower expenditure for defense than in fiscal year 1964—before the Vietnam build-up.

It is to take nothing away from the administration's understandable satisfaction with these developments to remark that the defense budget is still mighty high. We have no doubt that had the same rigid standards of proven need and proven efficiency been applied to certain weapons procurement programs that were applied to programs in the domestic sector, a number of planes and ships would likely have gone the way of the poverty program or impacted area aid to the schools. And, based on his record over the past couple of years, Chairman Stennis of the Senate Armed Services Committee (who was reported in serious condition at a late hour last night as a result of gunshot wounds) offered us reasons to expect that between $1 and $2 billion worth of excess in proposed expenditures for military procurement and research could be found. There will doubtless be other congressional settings for dispute over these hardware programs.

It is a dispute into which the services will move unequally. The Army, having already lost its proposed gunship helicopter and main battle tank to congressional actions, comes in with very little in the way of big, immediately costly programs beyond the SAM-d missile. And, to its credit, the administration has not asked funds to build the second Safeguard ABM site permitted us under the SALT agreement. The Air Force is, so to speak, at the take-off stage. Both the B–1 strategic bomber and the F–15 fighter do not yet reflect anything like the costs they could in time incur, although this year's budget does include a big purchase of F–15s. (We note that our old friend AWACS, the strategic air defense program about which Secretary Laird once accurately observed that this newspaper had a "thing," is in a state of relative repose. It is reportedly in process of being transformed into a less ambitious and more sensible tactical air defense project.)

It is the Navy that will be incurring the large and visible procurement costs with its various aircraft and shipbuilding projects and with its progress on the new long range underwater strategic missile system, Trident, and the new CVN 70 nuclear powered aircraft carrier among other major projects. Navy cost overruns, plus the relationship of Mr. Nixon's new budget director, Roy Ash, to the settlement of his old firm's (Litton Industries) claims against the Navy are bound to stir up further controversy on the Hill. And, despite the fact that Congress last year authorized procurement for both the Trident and the CVN 70, so too the pace at which the first project is proceeding and the early initiation of the second are bound to create new conflict. Especially where Trident is concerned, the accelerated rate of the program continues to raise the question of whether our underwater arsenal is dangerously outpacing our possible knowledge of the anti-submarine warfare techniques it may eventually be pitted against.

Both ultimate outlays of money and the safety and security afforded by the force structure we are creating are at issue in these administration requests, and they are matters on which Chairman Stennis along with others on the Hill have spoken wisely. But Mr. Stennis—unlike some of the liberal Democrats in Congress—also has no illusions about where the big financial outlay is going. It is going into manpower costs which have risen to 56% of the defense budget. As Caspar Weinberger, Mr. Nixon's outgoing budget director has aptly said, until the Congress granted substantial military pay increases in the mid-sixties, the nation was in effect taxing draftees to pay our national military bill. Now the public has assumed the cost. Compared to 1968, we are now spending approximately $7 billion dollars a year more on military pay and personnel costs, even though military forces have been reduced by 1.3 million men. If we were paying this smaller force at the old rate, we would be saving close to $20 billion a year. With the creation of an all-volunteer army and with the need to create new incentives to bolster the strength and effectiveness of the Reserves and National Guard, these costs cannot be expected to wither away. Moreover, the pressure for an unwarranted increase in military retirement benefits—"recomputation"—could put the whole thing out of sight.

All this suggests two things to us. One is that the Pentagon, for all the modest progress in these matters it has claimed, is obliged to take much more comprehensive and effective measures to reduce the excessive ratio of support-to-combat troops in the services, to cut back on the overblown general officer class, to close unneeded bases and to take similar steps such as creating a smaller but more efficient Reserve that will result in holding the line on personnel-related costs. The other is that those legislators who have preferred to address the defense budget solely in terms of glamorous, visible and highly costly individual weapons systems, should bend their attention to the manpower cost issue. Last summer, Chairman Stennis could only get three votes beside his own against a bill for "recomputation" of retirement benefits; and this year the administration has requested a "recomputation" bill that would cost around $360 million for the coming fiscal year. The point is that the administration bill would also incur a retirement benefit obligation to those it covered coming, over time, to more than $10 billion.

Recomputation, like other payroll issues, lacks much of the drama of the weapons systems battles. But that is where sensible congressional attention should now be turned. We would cite Mr. Weinberger again in support of the need to keep our military outlays under control: "The defense budget . . . must be seen not only in terms of what we must defend ourselves against but what we have to defend. The more we take from the common wealth for its defense, the smaller it becomes."

UKRAINIAN INDEPENDENCE DAY

Mr. FANNIN. Mr. President, January 22 was the 55th anniversary of Ukrainian independence. Unlike most independence days celebrated around the world, this annual commemoration is filled with anguish rather than joy. Instead of independence, the 47 million Ukrainians are a captive nation today.

Ukrainian independence was declared 55 years ago in the closing months of World War I. Their freedom was short-lived, however. Within a few years the Ukraine was again under the heel of a new oppressor, the Soviet Union.

Soviet rule has done more than rob Ukrainians of their freedom, it has imposed harsh conditions that have even caused starvation. The repression has been both political and cultural.

The history of the Ukraine is a history of struggle and these valiant people have not given up their fight for independence. I join with Ukrainians of the free world in commemorating this occasion to demonstrate that the spirit is not broken.

TRIBUTE TO EUGENE L. WYMAN

Mr. MONTOYA. Mr. President, the news of the sudden death of Eugene L. Wyman almost 2 weeks ago burst like a bombshell on many of us here.

For Gene, in the prime of life and in full flower, was the very symbol of energy and enthusiasm to those who knew him. But the energy was always channeled and the enthusiasm was always directed toward a central goal: making the world a better place for us all to live in.

There was another side of Gene, too. A side that few were really privileged to know. Although he was a public man, he had a very private life. He rejoiced in his home and family and always found there a source of regeneration and strength.

For if nothing else could be said of Gene Wyman—and the list of his accomplishments is almost endless—it would have to be said that he gave of himself.

There was never a problem too small for him to take an interest in. People meeting him for the first time were astounded when he asked them how they were: he really wanted to know. He cared for people, and that care penetrated into every corner and crevice of his life. It permeated every conversation and colored every meeting. When he said "let's talk" he meant that ideas should be exchanged, not that he was going to deliver a speech.

The care that he felt for people and the concern that he felt for their lives expressed itself in a career of public service that spanned most of his 47 too short years.

But, although he devoted himself to public service, he never held an elective office. Instead, he gave selflessly of himself at every level of campaign and party work. He was absolutely committed to the ideals of democratic government, and he was well aware of the dangers for our form of government when citizens do not become involved.

At the age of 19, he worked in his first campaign. In a time when young people shunned politics and planned careers in business instead of walking precincts, Gene Wyman was walking precincts for Adlai Stevenson and Paul Douglas.

The idealism of his youth never dimmed during his life—if anything, it became stronger and more vital. That idealism, coupled with warmth and compassion and backed by irrepressible drive,

were the overriding traits that we associated with him.

Gene could have run for office, but he always shunned the limelight, preferring instead to take a role that was often more difficult by far than that of candidate.

To Gene fell the enormous and often heartbreaking tasks of organization and finance in campaigns too numerous to mention. To Gene fell the tasks of helping to keep healthy our American political system through his seat on the Democratic National Committee.

Where smaller men would have shrunk from the responsibility that was thrust upon him, he seemed to thrive on it. Where men less dedicated to their ideals would have eased the burden, Gene added new responsibilities daily.

Gene Wyman called California his home, and during most of his life he worked for the good of his State. But the commitment he felt went far beyond the parochial boundaries imposed by State lines. That he was a truly national figure is best demonstrated by the homes of the gentlemen gathered here to pay tribute to him today.

And although he was a political man, Gene was also a humanitarian. His goal was to make life better for others. When he could work for that goal as a member of the board of a hospital or the great Los Angeles Music Center or any of dozens of other community activities, he did. Service was the key to his life.

A fitting, if too early, memorial to the ideals that Gene and his wife Rosalyn, worked for so hard is rising in the State of Israel. Gene gave much of himself to the cause of that fledgling nation when its friends were few and those few were called upon to sacrifice much.

On the campus of the Hebrew University in Jerusalem is rising a building dedicated to the study of politics. The Rosalyn and Eugene Wyman Political Science Building will house scholars seeking to understand and explain the political world that Gene knew was so important.

In 1968, Gene served as finance chairman of the Humphrey-Muskie campaign, reserving for himself the thankless but all too important task of raising money from potential contributors. His friends asked him:

Why do you torment yourself like this?

He said quietly:

I do it because our political system requires it.

And that, more than anything else, describes the essential Gene Wyman whom we loved so well and whom we will miss so much. There was no job too big or too small, no problem too difficult that he would not give of himself and no person that he did not care about.

He saw politics not as a game, but as the means to help others live better, fuller, richer lives; and he gave.

DEATH OF GENE WYMAN

Mr. STEVENSON. Mr. President, I join Senators in paying tribute to Gene Wyman—a selfless friend who contributed much to our democratic process of government. Gene Wyman believed in our system of government and, unlike many others, was willing to undertake the oftentimes thankless tasks which make it work. He asked nothing from those he supported except that they be true to the public interest.

Gene Wyman was known as a Californian, but he was a son of Illinois. He gained his first interest in public service while a student at DuQuoin High School, in southern Illinois. It is a mark of this man that, long after he had left DuQuoin to become a successful attorney in southern California, he took time from his busy schedule to organize a citywide tribute to his high school debate coach in DuQuoin. It was the only favor Gene ever asked of me—that I come back and speak at a high school rally honoring his former coach. He came home to DuQuoin, spent several days organizing and participating in the events, and when he addressed the public, he spoke to the young and of their duty to participate in public service.

Gene went a long way from DuQuoin, Ill., but he never lost the common touch, the understanding that people are important, and the belief that the best values are those simple values of trust and honesty and service.

Gene Wyman is gone, but his contribution to our political life will live on.

ACCOUNTANTS ASSIST SMALL BUSINESSES

Mr. FONG. Mr. President, small businesses constitute a vital part of Hawaii's economy and of our national economy as well. It was with great interest, therefore, that I read in the Pacific Business News of the efforts of the Honolulu office of the U.S. Small Business Administration to enlist the aid of the accountants in the State to assist small businesses.

I commend both the officials of the SBA office in Honolulu and the accountants for their cooperative efforts to assist small firms.

As other communities in America may be encouraged to undertake similar programs, I ask unanimous consent that the article be printed in the RECORD.

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

SBA ENLISTS ACCOUNTANTS' HELP IN EFFORT TO AID AILING FIRMS

(By John D. Ramsey)

Honolulu's Small Business Administration officials have launched a program to help trouble-plagued small businessmen before they reach the crisis stage—and to make the all-important contact through the accountants who serve those businessmen.

Already, the program shows great promise. Such a venture was clearly needed.

All too often, a small business goes bankrupt because the man in the manager's seat didn't realize he was in danger of folding—until it was too late.

SBA officials here have been trying desperately to help save a dozen local companies whose leaders waited until they were in critical financial condition before seeking that Federal agency's help.

But the help came too late, and the 12 companies are in the process of liquidation.

Says David K. Nakagawa, the SBA's District Director in Hawaii:

"Many people think that the time to come to the SBA is when they're halfway in bankruptcy. That's not true. A loan at that point in time only creates the pressure of additional debt burden.

The time to come to the SBA, says Nakagawa, is *before* the crisis develops.

Too often, the small businessman is so busy trying to run his company that he doesn't know when he's insolvent. Before he realizes it, his company is beyond salvaging.

"We asked ourselves, 'How do we reach the small businessman before he is confronted with such a crisis?' " says Nakagawa.

"The answer: through his accountant. A man's accountant can spot the danger signals far in advance. It's like a doctor dealing with cancer. If he catches it soon enough, chances are good we can cure it."

Obviously, the first step was to make contact with the accountants. The SBA took that step last August 9. Nakagawa wrote a letter to every accountant in the State.

Along with that letter he sent a questionnaire intended to find out:

1—How many accountants had ever worked with the SBA with regard to a loan application.

2—What accountants think of the SBA and its effectiveness in helping put a small business on a sound financial basis.

"We received 245 replies to our questionnaire," Nakagawa says. "One-third of the accountants told us they've worked on SBA loans and that they ran into all kinds of red tape and delays.

"Two-thirds of the accountants didn't have any experience with the SBA. That in itself told us a lot of things. We hadn't reached them."

The next step was to make the accountants realize that things are a lot better than they once were.

"We started off with a breakfast meeting with members of the Hawaii Society of Certified Public Accountants," says Nakagawa.

"As a result of this meetiing, they set up a small business committee headed by Kenneth Lacy of Peat, Marwick, Mitchell & Co. Through this committee and with the support of the president of the Society, Hal Oishi, we hope to communicate our SBA story to the entire membership and to improve our working relationship.

"In October and November, we began to set up workshops with the accountants in Kauai, Honolulu, Hilo, and Guam.

"This Thursday, we will meet with the accountants on Maui.

"Through these workshops, the accountants are learning that the basic function of the SBA is to participate with the banks to take on higher risks and to extend longer term loans for growth and expansion.

"They are finding out that government red tape has been eliminated through simplified procedures and improved working relationships established with the local banks.

"At the same time, we are clearing up a number of misconceptions about SBA loans which have discouraged them from utilizing SBA loans.

"We are now reaching a real understanding of the purpose of SBA loans and the function and role of the accountants in working with the local banks and SBA in helping their business clients.

"All this," Nakagawa explained, "can well be a major development in our term loan program because by establishing better working relationships with the professional accountants, we are opening the doors wider to more and more small businessmen and small businesswomen who need longer term loans to improve their financial position and compete more effectively against big business.

"Everywhere I go," says Nakagawa, "I find lots of enthusiasm on the part of the accountants.

"I know these people are going to be very helpful in working together with the banks

and the SBA in helping the small business clients."

WHAT THE NIXON BUDGET WOULD DO TO MEDICARE

Mr. CHURCH. Mr. President, the budget submitted by President Nixon on Monday would drastically increase the cost of medicare for persons who need and use that program.

Of all the ways in which the Nixon administration could have chosen to reduce the budget—and heaven knows that tighter spending controls are needed—it could not have chosen a more inappropriate target than medicare.

This is an attempt to put the burden of budget-cutting on the backs of the old and the sick, and it should be opposed by Congress and the general public.

Mr. Nixon's budget uses innocuous language to describe the forthcoming legislation to raise medicare costs for participants. It says merely that the legislation would: "redesign the deductible and coinsurance provisions—in order to provide stronger and more equitable incentives for use of appropriate and economical services and to reduce the financial burdens of lengthy hospitalizations."

Preliminary reports on the actual provisions of that legislation, however, indicate that the impact will be especially severe among those persons whom the medicare programs was designed specifically to help most.

If the administration has its way, this is what will happen:

A patient in need of hospitalization would pay the full cost of his first day and 10 percent for all costs after that. A patient now pays the first $72 of his hospital bill and nothing after that until the 61st day. There is some talk that medicaid could help patients meet the new requirements, but past experience shows that this kind of help is often difficult to obtain, that it involves a means test, and that many medicare patients regard it as "welfare medicine." It is a far cry from what Congress had in mind when it enacted medicare 8 years ago.

The medicare deductible for part B physicians' bills is now $60 but the new budget would raise it to $85. And after that the patient's share on the balance would rise from 20 to 25 percent.

Mr. President, the administration attempts to make it appear that such changes would reduce utilization of hospitals and physicians services and would therefore be economy measures.

This argument is apparently based upon the notion that those eligible for medicare somehow like to spend days in the hospital or long hours in a doctor's waiting room.

All evidence shows that overutilization is not the problem in terms of medicare costs; what is really needed are far more effective efforts and to prevent incipient health problems from worsening.

I wish that the budgetmakers had paid some attention to excellent testimony given within recent days before the Senate Committee on Aging.

For example, Nelson Cruikshank, president of the National Council of Senior Citizens, said that increases in deductibles and coinsurance—euphemistically called "cost-sharing"—inevitably cause the patient to postpone needed care. Mr. Cruikshank said that a 1971 survey by the Blue Cross Association and the National Association of Blue Shield plans found that coinsurance and deductibles do not, in fact, act as checks against overutilization.

He added:

> It is the poor, not the well-to-do, who will go without health care, thus increasing inequities and aggravating the health problems of all but the most fortunate.

As is so often the cause, a step taken in the name of cost cutting can produce just the opposite effect.

I believe that this is true in the case of the budget proposals for medicare; I believe that it is true of much else included in the budget.

It, therefore, behooves Congress to challenge the executive branch on questionable economies.

It is vital that Congress adopts its own initiatives to hold Federal spending in check while determining how the budget should be apportioned for the well-being of our people. We need congressional priorities, congressional direction, and congressional control.

If we are to believe the headlines, the war is over in Vietnam. And yet the requested military budget is to go up by $5 billion. I say, let us not replace a costly, runaway war with a costly, runaway Military Establishment.

Why is the administration proposing to spend $3 billion on the space program even though we have sent our last man to the moon? And why, despite the many questions raised about foreign aid, has the President once more come back to us with a sharply increased budget calling for $4.3 billion in foreign assistance?

The President has said he is out to get the "sacred cows" among the Federal programs in order to reduce the budget. I agree with him that many of our programs are costly and outmoded and I will work with him wherever proposed cost cutting is based on good judgment, sound information, and genuine economy.

But "sacred cows" still graze in the pasturelands of the administration, and they, too, must face questioning and—where called for—curtailment or elimination.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Washington Star-News of January 30. It describes Social Security Commissioner Robert Ball's concern about the budget proposals on medicare. Mr. Ball was also a witness at the hearings I mentioned earlier; he has worked with the Social Security Administration since 1937 and he has had much to do with the development of medicare. His remarks certainly are based on expert opinion, and it is unfortunate indeed that the administration has chosen to take a course contrary to those which Commissioner Ball and others feel to be a major blow at the overall security and well-being of older Americans.

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

SOCIAL SECURITY HEAD DISPUTES BENEFIT CUTS

(By Philip Shandler)

President Nixon's claims that increased payments by Medicare recipients of their hospitalization costs would shorten hospital stays have been disputed by the outgoing Social Security administrator.

Robert M. Ball, whose resignation from the post he has held the last 11 years has been accepted by Nixon, said he cannot support several aspects of the proposed budget for health care for the elderly.

In his budget message yesterday Nixon called for legislation to raise the annual deductible—the patient's initial out-of-pocket cost—on doctors' bills from $60 to $85, and to boost the patient's share of subsequent expenses from 20 percent to 25 percent.

More basically, he recommended revising the payment formula for the hospital insurance portion of Medicare available to anyone over 65 without an enrollment fee.

Currently each patient entering a hospital pays $72 for room and board the first day, a national average, but nothing more until the 61st day of hospitalization. Then he pays $13-a-day for the next 30 days and $26-a-day a maximum of another 60 days when the benefits run out.

The administration would have the patient pay the actual cost of his first day in the hospital, and 10 percent of all services thereafter.

Administration officials said their aim is confronting both patients and doctors with "the real costs" of hospitalization to discourage long stays.

But, Ball said, if patient costs were "a major thing" in hospital-bed utilization, how come hospitalization is lower for subscribers to the so-called Kaiser plan, a health-maintenance organization, than for the public generally?

Subscribers in health-maintenance organizations are entitled to virtually free medical and hospital care on payment of an annual fee. The administration has been citing reduced hospital usage by these persons in advocating funding for the creation of more HMOs.

Ball's remarks were the first clear indication of a policy split with the Nixon administration.

The President announced three weeks ago that he had accepted Ball's resignation. Ball said he was happy to go, though willing to serve on.

But friends said he would have preferred to remain, and key congressmen said they were distressed that he would be leaving as the government is moving into several new programs, including federalization of current state welfare assistance for adults.

GEORGE B. HARTZOG

Mr. McGEE. Mr. President, it is true, I believe, that political appointees from one administration seldom survive the takeover of another. However, to dismiss a man who was doing good work is an example of poor management—a condition this administration has demonstrated by many examples.

In this case, it is to the credit of George B. Hartzog that he has remained through three administrations as Director of the National Park Service. Hartzog came to the Department of the Interior in 1946, and in 1964, after 18 years of service, then-Secretary of the Interior Stewart Udall appointed him to head the National Park Service.

In the years of his service as Director of the Park Service, Hartzog has proved his ability to deal with the critical de-

mands of a diverse constituency; he has honed and sharpened the skills needed for a balanced approach to the conflict between preservation and overuse of the national parks. This was an invaluable skill when it came to presenting Congress with alternatives which would prove acceptable to both points of view.

Two statements from a recent master plan draft for the long-range management of Yellowstone National Park, the Nation's first and, often, the pacesetter of the national parks, exemplify the scope and the forethoughtful direction to which Director Hartzog had pointed the Service:

If Yellowstone is to survive the next 100 years, a new equilibrium must be achieved—the irreplaceable park resources must be weighed against the human impact upon them an a new balance struck.

In the final analysis, however, the public must be made to recognize that there is a limit to the ability of the park to withstand open-ended overnight use. Parks are not for people, if it means that public use will be permitted to the point that park values are destroyed. Ultimately, the public must recognize that unlimited development signals eventual destruction.

The removal of George Hartzog from a job he did well—politically rationalized as it may be—was an unfortunate insensitivity to the needs of this country for dedicated and reasonable men in positions of leadership. More than 70 new units were added to the areas available to Americans for healthful moments of recreation while Director Hartzog had charge of the Park Service; they are monuments in his honor.

There is no question that George Hartzog will bring his vigor and experience to his next job. As I understand, he has decided to join a legal firm specializing in environmental law. I am sure this is not the last we will hear of Mr. Hartzog on the important matters of the environment.

SPEECH BY SENATOR HRUSKA BEFORE THE NCCJ

Mr. GURNEY. Mr. President, crime has been characterized as one of America's most pressing domestic problems. Its solution is a challenge to each American and to government at every level.

Under the auspices of the Law Enforcement Assistance Administration, the National Conference on Criminal Justice recently concluded a 3-day meeting here in Washington which was called to bring together citizens and professionals from all sectors of criminal justice, with the sole objective of reducing crime in a just and equitable fashion.

On January 25, the third plenary session of this conference was addressed by the distinguished senior Senator from Nebraska (Mr. HRUSKA) on the subject of pending Federal criminal legislation.

Senator HRUSKA has long held a venerable place in the continuing development of Federal criminal law. As the ranking minority member of the Subcommittee on Criminal Laws and Procedures and the full Committee on the Judiciary, he is considered quite accurately as the Republican professor of criminal law by all the Members of this body.

For the enlightenment of Senators, I ask unanimous consent to have printed in the RECORD the speech by Senator HRUSKA and suggest it as required reading for the 93d Congress.

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

PENDING LEGISLATION RELATING TO CRIMINAL JUSTICE

My first statement this morning is a warm greeting with congratulations and commendation to two groups: (1) the members and staff of the National Advisory Commission on Criminal Justice Standards and Goals; and (2) those of you attending this National Conference to partake of the fruits of the Commission's labors and to join in its mission of advancing criminal justice in America.

You are to be commended for the substance of the Commission Report and the deliberations upon it.

The spirit and intent with which you pursue the objectives are also noteworthy. They do not contain coercion or "heavy new pressures" upon any segment of government. Rather the spirit and intent is to inform all concerned of the composite judgment and wisdom gathered in the Standards and Goals. Then to generate in each and everyone the intelligent yet driving desire to engage and utilize the very utmost in securing their adaptation and approval through regular legislative channels in the respective jurisdictions involved.

This is the truly enlightened way in which to proceed.

It is the method whereby effective and enduring results may be attained.

Your labors and concern are noted. There is appreciation for them. As time goes on both the notation and the appreciation will widen and intensify.

Pending legislation in Congress is voluminous in mass and variety.

It is of great depth and scope.

Of immediate and direct interest to those present is the major and early review of law enforcement activity and the Law Enforcement Assistance Administration.

Statutory authorization for this Agency will expire on June 30.

The Administration is preparing an extension proposal along lines of special revenue sharing. Members of Congress have some proposals to make. All of these I will elaborate upon later in my remarks.

TOTAL REVISION OF FEDERAL CRIMINAL LAWS

Work is already well advanced on a total revision of federal criminal laws. In 1966, a National Commission on Reform of Federal Criminal Laws was created. This group submitted an extensive report to Congress two years ago. Since that time the Senate Subcommittee on Criminal Laws and Procedures has undertaken an ambitious program of hearings on the Commission proposals and earlier this month Senator McClellan, Senator Ervin and I introduced a bill—S. 1, amounting to some 540 pages—which would revise and codify the general structure and recommendations of the Commission.

Over the next months we will be asking for comments on this bill and a companion proposal soon to be submitted by the Administration so that we can prepare for the full Senate our final suggestions on this massive and tremendously important project. It is our hope that by the end of 1974 the Congress and the President will have approved a bill which will modernize and standardize all aspects of federal criminal law. In this bi-partisan effort we will be addressing all of the tough questions that confront the criminal law today—such as capital punishment, gun control, abortion, narcotics, and obscenity—and we will have to take a stand on these questions—but beyond these controversial issues the real heart of the code will be such major improvements as standardized grading of offenses, systematized approach to jurisdictional questions apart from the substance of the offense, and the revision and codification rather than consolidation of criminal law for the first time in our history.

PENAL REFORM

A number of varied proposals have been submitted in the past to deal with what we all recognize are deficiencies and weaknesses in this nation's corrections systems. These range from my own suggestion of a National Institute of Corrections to pre-trial diversion to a complete phase-out of incarceration as a penal technique. The 93rd Congress will have to take a hard look at these and other proposals in order to meet its responsibility to provide federal leadership in this field. With the guidance of Senator Burdick of the Senate Penitentiaries Subcommittee, I believe that the Senate will approve some significant legislation in this area.

OTHER ISSUES AND SUBJECTS

Other issues are waiting in the wings for our attention. Such matters as speedy trial, changes in present gun control laws, additional narcotics control legislation, consideration of the question of newsmen's privilege, and skyjacking. In the areas of the Federal Judiciary: 1. Proposed rules of Evidence; 2. Additional Judges; 3. Revision of the Appellate system, and 4. Re-examination and revision of the federal jurisdiction.

This latter as to jurisdiction will be based on a 10 year study (1959–1969) of the American Law Institute. It is quite inclusive of all aspects of the subject, including three judge court cases, and diversity of citizenship cases. State courts will be especially affected by diversity cases amendments. In my judgment all for the good.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

There is no greater issue facing the nation today than the assurance and the fact of safe streets and communities. The insuring of domestic tranquility.

If our people cannot feel secure in their own homes, then all other triumphs are diminished—and government has failed in its obligations to the electorate.

Congress has long recognized its responsibilities in this matter, and it referred to them four years ago when it passed the Omnibus Crime Control and Safe Streets Act.

In 1968, the year of the Act's passage, the United States was faced with one of the greatest domestic crises of this generation.

Crime had become a threat to our survival as a nation in a manner never before seen in our history.

To be completely frank about it, we were about to plunge over into the chaos of anarchy and lawlessness.

To us in the Congress, it had become apparent that our law enforcement and criminal justice agencies faced a stark future unless they could be given prompt and substantial assistance.

In the United States—unlike many countries in the world today—police, courts, and corrections agencies are almost entirely dependent upon local financial sources. Except for the relatively modest-in-size Federal criminal justice system, all crimes and criminals are state and local responsibilities.

However, as we all know, state and local governments by and large are in great financial distress.

Congress felt there also was an urgent need for a new, vigorous, and forceful initiative to jar law enforcement and criminal justice agencies out of their old, outdated habits—to make them discard ineffective ways of

doing things that were tolerated simply by force of habit.

Congress felt that it was time to restructure and to modernize, to develop needed new programs, and to review what was good about what we had been doing and what was in need of substantial improvement.

At the same time, there were certain principles we kept foremost in our minds as the Safe Streets Act was being written. Chief among them was that the states and their local subdivisions absolutely must maintain their autonomy in criminal justice.

It simply would not do if Congress were to revamp the system by imposing a national police system on the sovereign states and territories.

I feel safe in categorically stating that none of us wants a national police force. None of us wants any national agency to usurp or dictate or dominate state and local responsibilities in any part of their criminal justice system.

This conviction is national policy. Congress formalized it in the Act's preamble which declares: "Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively."

This, then, is how the block grant concept arose. Knowing that state and local governments needed help, but also recognizing that they should not tolerate or suffer Federal dictation, Congress wrote into the legislation safeguards to protect our freedom and self-determination.

Instead of creating a new Federal agency to parcel out financial aid to obedient and subservient local recipients, Congress resolved to put the state and territorial governors in charge of their own programs.

Thus, 85 percent of the Law Enforcement Assistance Administration's action funds go directly to the states according to their populations; and 75 percent thereof must go to general local government.

This was not popular with a small minority in Congress that continued to cling to its dangerous theories of Federal dictation.

Nevertheless, it is what the people demanded. And what the Congress decisively voted.

In accord with these principles, LEAA was created as a self-help program that relies upon local responsibility.

It has been a success. It has created a dynamic new leadership at the state and local levels in criminal justice.

It has done much to erase old rivalries, and it has accomplished much in improving those agencies that had been lagging in crime control.

What I have just described is the essence of what the President calls the New Federalism. It means helping state and local governments to help themselves.

Last Saturday the President put it in these words: Ask not what your country can do for you; ask what you can do for yourself.

In so saying, he was talking to the individual person to be sure. But he addressed at the same time our state and local governments and institutions.

Indeed, the block grant concept written into the Safe Streets Act was the forerunner or prototype of the New Federalism. It has paid off very well.

To be sure, crime is still with us, but many extremely significant things have occurred in the struggle against lawlessness since LEAA was enacted.

Greater efforts have been made to combat crime than at any previous time in our history.

However, not everyone will admit this truth. There are still a few persons who have challenged blockgrants. Many of them have spoken without the benefit of all the facts.

An example of what I mean is the 1971 hearings of a House Government Operations Subcommittee into the Law Enforcement Assistance Administration's operations. This was purely a partisan effort to destroy the block grant program. The Subcommittee report on these hearings was notable for its bias and inaccuracy, as the panel's Republican members pointed out so convincingly in their dissenting report.

There is another movement afoot to wreck LEAA, the block grant program approved by Congress in 1968 and again in 1970, and the concept of revenue sharing. It is the proposal to create a National Institute of Justice to replace the sound and workable program that we already have.

Institute advocates would substitute a public corporation for an existing Federal agency. The ostensible reason is the false charge that LEAA is not financing significant court reforms.

However, that accusation is belied by the fact that most of the Institutes' proposals would empower the proposed institute to establish projects in law enforcement, corrections, parole, probation, and all other criminal justice areas.

What makes the institute idea all the more suspect is that many of its advocates have attacked LEAA by name or have ignored its many accomplishments in court reform and every other criminal justice discipline.

Not a few institute advocates, for example, have uncritically praised the Committee for Economic Development for its statement on "Reducing Crime and Assuring Justice."

The Committee for Economic Development is a distinguished body of businessmen and other leading citizens. However, the staff statement on justice made a number of superficial and unwarranted charges against LEAA that does the CED no credit.

The statement said, for example, that LEAA should be transferred to a new government agency, which it called the Federal Authority to Ensure Justice.

This, according to the CED statement, would serve "as a nucleus for an expanded unit to manage large conditional grants."

Such a program would do away with block grants and re-attach all those old bureaucratic strings for which Washington is so justly famous—or infamous.

The National Urban Coalition and the Lawyers' Committee for Civil Rights Under Law also participated in the attacks on the block grants.

Let me state, so that there is absolutely no misunderstanding, that everyone in this country has the right, and even the duty, to take a critical look at what the government is doing. That is part of good citizenship and our responsibility as voters.

However, that examination must be fair, honest, and objective. In short, it must be judicious. There is no justification whatsoever for hysterical condemnations of programs that just don't happen to coincide with someone's preconceived ideological notions.

And that, I am sorry to say, is what was wrong with the Lawyers' Committee report on LEAA, which emotionally charged that the Safe Streets Program was financing an antidemocratic strengthening of police powers to be used against innocent citizens.

Nothing could be further from the truth, as every professional knows. As we have all emphasized so many times before, what this program is all about is *more* democracy, *more* local control, *more* responsibility for the people in their own communities.

It probably will come as no surprise to you that many of the persons who helped prepare the Committee on Economic Development statement and the Lawyers' Committee report as well as those who are most vigorously supporting the proposed Institute are long-time opponents of block grants and the new Federalism.

Above all else, partisanship should not be allowed to interfere in such an important cause as the betterment of criminal justice. many of the New Federalism's critics have failed to take a close look at the Safe Streets

Unfortunately, and to my great regret, too program and the demonstrated effectiveness of the block grant approach.

For example, they have failed to give heed to the changing patterns of crime that have occurred in the last few years.

There is simply no denying that the soaring crime rate increases of the past decade are moderating.

Crime rose 122 percent between 1960 and 1968.

But during the first nine months of last year, serious crime rose just one percent.

That is the smallest nine-month increase since the FBI began issuing quarterly reports in 1960.

There was no increase in crimes against property during the first nine months of 1972. This compares with a six percent increase in property crime during the comparable period in the preceding year.

Violent crime increased 3 percent during the first nine months of last year, compared to a 10 percent rise in the first nine months of 1971.

The FBI figures also show that, in the first nine months of 1972, 83 of America's major cities recorded actual decreases in serious crime, compared to only 52 for the comparable period.

So something good is happening.

A few critics have tried to quarrel with the score keeping. But the facts speak for themselves. Progress is being made.

Many critics also fail to take note of the very real successes of the LEAA program.

Projects like the Crime Specific Burglary Prevention and Control Program in California which received $1.5 million in LEAA funds.

Begun last April, the program has already achieved impressive results in a number of target cities in the State. San Francisco, for example, reported a 47 percent reduction in the burglary rate since the project began. Bellflower, another California target city, reported a 30 percent drop in burglaries.

Early last year, LEAA announced a major new program designed to achieve a tangible reduction in street crime and burglary—the violent crimes which generate the most fear among citizens.

It is the High Impact program now under way in eight major cities: Atlanta, Baltimore, Cleveland, Dallas, Denver, Newark, Portland (Oregon), and St. Louis.

Results are already beginning to appear. In St. Louis, for example a total of $5 million in Impact funds has been awarded to finance 23 innovative projects to reduce crime. One of the programs funded is a special police patrol team which the city says has helped to decrease burglaries by 19 percent since it began.

LEAA has also played a major role in the Federal effort to curb drug abuse, a menace which threatens the lives and well-being of a shocking number of our young people.

LEAA awarded over $3 million last year to establish innovative drug treatment programs in Cleveland, Wilmington, Delaware, and Philadelphia. Called Treatment Alternatives to Street Crime—TASC—the programs are being conducted in cooperation with the Special Action Office of Drug Abuse Prevention. TASC provides for identification and treatment of narcotics offenders, rather than institutionalizing them.

In addition to the three cities I've just mentioned, TASC programs will be carried out in the other Impact cities as part of their total anti-crime effort, and in a number of other major cities throughout the country.

LEAA also provides fund support for the Office of Drug Abuse Law Enforcement (DALE), which is conducting a campaign against street-level heroin traffickers in 33 major cities.

Another successful narcotics-related pro-

ject supported by LEAA is under way in New York City. Under a $7.5 million LEAA grant, the city has established eight special narcotics courts to handle the backlog of felony narcotics cases. The special courts began operating in February and in three months, disposed of 850 indictments by trial or plea.

This is just a brief sample of the kinds of successful projects now in operation all over the country. The range of programs cover every aspect of the criminal justice system—police, courts, corrections—and the most pressing crime problems—organized crime, juvenile delinquency, narcotics abuse.

None of this progress would have happened without the LEAA program.

I believe that the overwhelming majority of informed American people support the LEAA approach to crime control.

The credit for this unprecedented national attack on crime should go in large measure to state and local governments. They have responded to the LEAA program and, in the overwhelming number of cases, made wise and effective use of LEAA funds.

But despite what already has been done, local governments still lack the one key ingredient they need to make the battle against crime fully effective.

They still are caught in a financial trap caused by dwindling resources and swelling needs.

The general revenue sharing program sought for so long by the President has now become a reality. And it will be of enormous assistance.

It is essential now to take another step to make Federal assistance to local law enforcement and criminal justice even more effective.

As the President noted in a newspaper interview not long ago:

"What we need is basically, reform of existing institutions and not the destruction of our tried values in this country."

The President went on to say in the interview that his next Administration "will be one of reform, not just adding more dollars."

He said there would be reform in all fields, and he specifically cited "reform in Federal-state relations."

In a radio address on crime and drug abuse from the White House last October 15 the President declared, and I quote:

"I will ask the new Congress to move swiftly in enacting my proposals for Law Enforcement Special Revenue Sharing, to give the States and cities greater decision-making power in meeting their own needs."

I am not in a position to discuss with you in detail the exact language that will be in the President's request of the 93rd Congress—for it is yet to be submitted. It will be soon.

However, I can say that it will be a great boon for every state and local community in the nation—make no mistake about it.

You will want to be behind it because it is a program specifically aimed at crime.

But despite the need for law enforcement revenue sharing, we can be certain that there will be attacks mounted against it.

There will be attacks mounted against continuing any efforts to aid the states and localities in reducing crime that involves block grants or revenue sharing.

Those who oppose these courses want the Federal government to assume dictatorial powers in the fight against crime—dictatorial powers over state and local governments.

I believe they will lose again—as they have lost in the past. They will lose because the New Federalism is the wave of the future.

Law enforcement revenue sharing will provide the states and units of local government greater flexibility and freedom in expending funds for criminal justice purposes.

It is one of the most innovative and significant proposals of our lifetime. It recognized the long-felt need of states and localities for adequate and unfettered Federal financial assistance.

The President's program needs support. It needs the sympathy and understanding of all officials. It's your program, after all.

That does not mean that LEAA will not stand for any more criticism.

Far from it.

All I am saying is that we can no longer afford the luxury of aimless broadsides against legislation that was created to help you.

We need a higher level of cooperation—a better partnership between our Federal government and our local governments.

I am firmly convinced that this is the course that the vast majority of Americans expect of all of us. This program has the support of the people who know it best, of the men and women who work with it day-in, day-out, all year long.

But it is also up to us to get this message across to those few who have not yet gotten the word. The safety of all Americans depends upon it.

Legislatively speaking the 93rd Congress could prove, if it successfully faces even a portion of the issues before it, to be one of the most significant legislative sessions on criminal law matters in recent decades.

May it come to pass!

FUNDING OF LONG ISLAND SOUND AND HOUSATONIC RIVER BASIN STUDIES

Mr. RIBICOFF. Mr. President, I am pleased that the administration's proposed budget contains the funds I requested for two important environmental programs affecting Connecticut—the New England River Basins Commission's Long Island Sound study and the Army Corps of Engineers wastewater management study of the Housatonic River Basin.

A few years ago Long Island Sound, this Nation's first urban sea, was on the verge of becoming another Lake Erie. The prime factor in its deterioration was the bureaucratic confusion caused by the fact that innumerable counties and municipalities, two States, and 18 Federal agencies shared jurisdiction over the sound.

In order to bring order to this chaotic situation, I introduced in 1969 legislation creating a unified intergovernmental study of the region. As a result of that bill and the hearings I held in Washington, New York, and Connecticut, President Nixon extended the New England River Basins Commission to include the entire sound and authorized a comprehensive study of its resources.

The commission's study, based in New Haven, Conn., is now in its second full year. I have been informed that the project is going well and keeping close to the original timetable. The $1,138,000 budgeted by the administration will insure the success of this important undertaking as it enters its third and final year.

Another area threatened by pollution is the Housatonic River Basin. In its northern reaches the Housatonic is one of the most scenic rivers in New England. It has not been intensively developed and remains close to its natural state. However, the southern reaches of the Housatonic and its principal tributary, the Naugatuck River, are severely polluted.

The Water Pollution Control Act of 1972 will help these rivers run clean once again. In order to insist the cities and towns in the basin meet the requirements of the act, the Congress last year authorized at my request a comprehensive waste water management study of the Housatonic and its tributaries. The goal of the study is the formulation of alternative plans that would give the people of the basin an opportunity to chose the degree and method of treatment they themselves consider appropriate for immediate and long term implementation. The communities will not be required to accept any particular plan, but will be provided a series of choices they would not have been able to develop on their own.

The $240,000 budgeted for this study means that the Corps of Engineers can begin serious work on this important project this year.

CIGARETTE SMOKING AND AUTOMOBILE DRIVING

Mr. MOSS. Mr. President, in the legislative controversy that swirled around the enactment of a statute to forbid advertising of cigarettes on television and radio based on the findings of the Surgeon General and the medical community that smoking of cigarettes is harmful to health, many of the opponents of this action insisted that cigarettes were not harmful and that those pressing for lower consumption or cessation of smoking were doing so out of prejudice or misinformation.

This morning there is a new fact to be plowed into this dialog. One of our great insurance companies, after running a survey in three of the populous States of our Union, has made a determination that those who smoke are nearly twice as likely to be involved in an accident while driving an automobile. Because of this accident-prone factor, that insurance company is offering a reduction in premium to those who do not smoke, and this reduction runs from $25 to $50 a year. I welcome this information. Maybe many who refuse to be persuaded by the medical evidence of sickness and death induced by smoking will allow hard money figures to persuade them that the way to health and safety is to stop smoking. I ask unanimous consent that an article by Andrew Wilson, published in the Washington Post this morning, be printed in the RECORD.

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

SMOKER MOTORIST IS ACCIDENT PRONE

(By Andrew Wilson)

ST. LOUIS, MO., January 30—Add one more item to the list of evils associated with smoking: compared with nonsmokers, smokers are about twice as likely to bang up their cars.

Having tested the concept in three states—Washington, Wisconsin and California, the Farmers Insurance Group, based in Los Angeles, will extend a special non-smokers discount to drivers in 17 more Western and Midwestern states, beginning, Feb. 1.

Non-smoking drivers will have $30 to $50 year under the discount, or up to 25 per cent

off their annual automobile insurance premiums.

"Public acceptance has been quite good," Parke Godwin, vice president in charge of actuary, said, "our agents have been very enthusiastic about it."

The insurance plan, described as the first of its kind in the country, was sparked by research done by Columbia university in 1965 showing that a significantly higher ratio of smokers than nonsmokers fell into the high automobile accident group.

In 1968–69, Farmers, also a pioneer in offering reduced life insurance rates to nonsmokers, conducted a pilot study of its own using 3,000 motorists who had both automobile and life insurance policies with Farmers or one of its subsidiaries.

Its findings backed up those of the Columbia study, Godwin said.

"We found the accident rate among smokers was 6.59 per cent compared with 3.75 per cent among non-smokers—or almost twice as much," Godwin said.

Farmers initiated the nonsmokers discount about two years ago in Washington. The discount may soon be offered in all 25 states in which Farmers operates, Godwin said, adding that he expected to "see some others (insurance companies) follow us."

For the present, Farmers has no plans of increasing premiums for smokers. Yet higher premiums may eventually become part of the wages of the habit.

"It's all just long-range speculation, but if nothing else happens, the rates will have to go up on one group if they go down on another," Godwin said.

The Farmers group had over two million auto insurance policyholders in the 20 states where the discount will be offered, and will write about $500 million in auto coverage in all 25 states this year, according to Godwin.

Despite radio and newspaper promotion of the discount in the three states where it has already been offered, only 10 to 15 per cent of Farmers' policyholders there have availed themselves of it.

Godwin said he expected the proportion of users to rise sharply as the new plan becomes better known.

Why should smokers be any more prone to automobile accidents than non-smokers?

Paul Whealen, director of Farmers' product development department, speculated that smokers might be generally more reckless than nonsmokers.

"It probably has more to do with the psychology of the people in both groups and has nothing to do with the actual physical act of smoking while driving," he said. "Nonsmokers are probably more conservative in their driving habits."

Whealen agreed that a greater percentage of nonsmokers might also be nondrinkers.

"I think there must be something to the fact that the act of smoking does cause some distractions," Godwin said, emphasizing that he was speaking only speculatively. "Smoke in the eyes, flicking ashes off of one's clothes, must have some effect."

NEW CRUTCHES HELP THE HANDICAPPED

Mr. DOLE. Mr. President, our society is fortunate to have people who dedicate their talents to helping others. Such an individual is Joseph Manzo. He has developed improved orthopedic equipment to aid the handicapped in moving about more freely in everyday situations. An article describing Mr. Manzo's aids recently appeared in the Washington Post. I ask unanimous consent that the article entitled "New Crutches Help the Handicapped," written by William H. Jones, be printed in the RECORD.

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

NEW CRUTCHES HELP THE HANDICAPPED

(By William H. Jones)

Joseph Manzo is a man who really knows his business. As an inventor and manufacturer of aids for handicapped people, he's been his own guinea pig. He was a victim of polio at the age of 7 and has had to use crutches ever since.

Manzo, of Alexandria, recalls that one of the things that bothered him a great deal when he was growing up in his native Rhode Island was unsatisfactory equipment—particularly during icy weather. He had to use crutches that slipped on ice, that were too light, too heavy, or unbalanced, or whose "rivets worked loose, and screws broke."

He studied engineering at New York University and decided to devote his career to making better products for the millions of people who need specialized orthopedic equipment.

Manzo pursued graduate studies at the University of Rhode Island where he earned a master's degree in mechanical engineering. Later, he worked as a consulting engineer and taught at North Carolina State University.

It was during this time that Manzo came up with what sounds at first like a simple idea—but it was one no one else had: he designed a retractable pick for the end of crutches, a steel point that protects users against falling on ice, wet grass and other slippery surfaces, using the same principle that led tire manufacturers to put studs on snow tires. U.S. and foreign patents are pending on the steel tip.

According to Manzo, "It was the first major breakthrough for crutches and canes in 27 years." It was also a breakthrough that led to establishment of a now flourishing company and gave Manzo something in common with a football player named Sonny Jurgensen.

Jurgensen has been using Manzo designed crutches since the operation on his Achilles tendon, after purchasing them at Alexandria Medical Arts Pharmacy.

Manzo founded Engineering Arts, Inc., at 800 N. West Street, Alexandria, in 1971, to manufacture and distribute a line of canes, crutches and other patient aids. Financing was aided by a loan from United Virginia Bank/First and Citizens National, guaranteed by the Small Business Administration.

Actual marketing operations began last June 1 and sales in the first several months to government agencies and commercial outlets topped $40,000. Engineering Arts employs five persons full-time, and four persons part-time; Manzo is training future workers under a state community college program.

"One of the reasons I decided to get into business here is because of what I believe is still real prejudice against handicapped people," Manzo said.

"I recall on my interviews being asked whether or not I could make it to the water cooler or rest room . . . In fact, even at a company where I worked for a short while, I was denied any special parking consideration because the manager did not feel that he should extend this courtesy."

Manzo's line of crutches is being sold throughout the United States, and orders from abroad have started to arrive—partly through Virginia's foreign trade division, which has an Office in Brussels, Belgium, that distributed brochures on Engineering Arts products.

Perhaps most important, a number of government agencies have approved the crutches for use in their facilities, and are allowing prescriptions of the equipment. The Veterans Administration recently ordered 2,460 pairs of Manzo crutches, for example.

The Small Business Administration also certified Engineering Arts, Inc., as a company to which the government should direct purchases under a program of aiding small firms, and approved management assistance aid for Manzo's firm under which Decision Sciences Corp., of Jenkintown, Pa., is helping guide Engineering Arts' initial marketing efforts.

"Patient aids have not been generally sold with much innovative marketing or merchandising," Manzo said, "and I do believe we owe much of our success to date to our creative graphics, advertising and marketing," which has been displayed in various medical trade publications.

Manzo said he is working on additional products, including a walker and commode chair. He also said long-term plans include regular hiring of the handicapped veterans and other disadvantaged workers when the payroll is increased, and eventual ownership by employees.

Because of large production requirements in such a short time, said Manzo, his company is designing high-speed, pneumatic, fully automated equipment. "This would be a first in the industry," he said, "since most patient aid manufacturers use low-priced semiskilled labor."

Manzo also is completing a study of the government's efforts to increase ridership opportunities on mass transit for the elderly and handicapped, and he generally credits the Urban Mass Transit Administration in the Transportation Department with an "excellent" job of making the public aware of these needs.

The 37-year-old Manzo also praised legislation passed by Congress last year, and signed by President Nixon, that will permit the SBA to provide special loans for the handicapped.

A bachelor, Manzo participates in amateur theater at Alexandria's Little Theater, and also enjoys rifle shooting.

GENE WYMAN WOULD HAVE BEEN THE FIRST TO AGREE

Mr. MONDALE. Mr. President, I would like to add just a few words to those already spoken here in praise of the late Eugene L. Wyman.

All the obituaries written about Gene naturally have highlighted the role he played as fundraiser for the Democratic Party. He did the job very well—even lent dignity to it by always being open and candid with reporters and others who questioned him about his activities.

I only wish that Gene's obituaries would have added that he wanted to be put out of the political fundraising business. While he did that job well and with dignity, he hoped we would find a better—a saner—way to finance campaigns and thus free politics from the hold of money.

In a way, we began to pay real tribute to Gene Wyman while he was still alive. And we did so by stiffening public reporting laws, by restricting campaign spending, and by approving a checkoff system to provide public funds for presidential elections.

But the crucial step still lies ahead. Teddy Roosevelt proposed it years ago: public financing for all campaign costs as an alternative to private contributions.

We must strive to reach that goal for it is in the best interests of the United States. Gene Wyman would have been the first to agree.

SENATOR STENNIS

Mr. STEVENSON. Mr. President, I share with all Members of the Senate

the shock and grief which accompanied the terrible news of the brutal assault upon Senator STENNIS last night. As one, we all pray and devoutly hope for his full and speedy recovery and send our sympathy to him and to the members of his family. His injury is a tragedy not only for himself and his family but also for the Senate, which he has served faithfully and well for many years.

CONTROL OF FEDERAL SPENDING

Mr. ROTH. Mr. President, the Senate knows of my continuing interest in bringing Federal spending back into the control of Congress. I think it is becoming clear to many Members that if we sincerely want substantive reform, we must regain our power to establish both a responsible level of expenditures, and then to subdivide this total between priorities as we see them.

I am delighted to see that the distinguished Senator from Tennessee (Mr. BROCK) has been working hard toward this goal. I am pleased, therefore, to bring the following article to the attention of the Senate. It is an example of the bold thinking which will be needed if we are to bring about much needed change, and I commend it to the Senate's attention.

Mr. President, I ask unanimous consent that the article by Senator BROCK, printed in the December 1972, Nation's Business, be printed in the RECORD.

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

A PLAN TO MAKE FEDERAL BUDGETING MAKE SENSE

(By Senator WILLIAM E. BROCK III)

Picture, if you can, a corporation with 500 men on its board of directors.

If that doesn't tax your credulity, try this.

For reasons of its own, the board can't—or won't—pass on the corporation's overall annual budget.

Instead, it farms out small parts of the budget to scores of subcommittees, each riding herd on an office or two.

They hold hearings that go on for months, as one executive after another comes forward to sell his office's spending plans.

Some executives go beyond personal appeals.

They coax stockholders to appear before the subcommittees to plug the executives' pet projects.

Finally, often after the new fiscal year has begun, about 20 separate budget reports—or mini-budgets—go before the board. Most members have only a foggy notion of what's in a report or behind it. Only the handful who held hearings, and drafted it, know that.

So the board tends to go along with the spending plans those colleagues have endorsed.

Thus, bit by bit, the overall budget takes shape.

Meanwhile, no board member knows how much it will add up to. Nor does the board weigh the relative merits of competing demands on corporate funds. It's an open-ended way to draft a budget.

We all know what would happen under a system like this. The board members would soon spend the corporation into bankruptcy.

I ask, is that any way to run a railroad—or any other enterprise?

Well, that's the way Congress runs the country.

Almost every business, or municipality, adopts a budget before it starts spending money for the coming year.

But not the federal government.

To be sure, the President proposes a budget. But at no time does Congress accept it completely nor does Congress adopt a budget of its own.

HODGEPODGE ON THE HILL

Instead, the system works like this:

Each January, the President sends his budget to Congress, asking it to approve specific spending programs and to provide money for them in appropriations bills. Since there are thousands of federal spending programs, each bill includes funds for a number of them.

Once introduced, the bills are sent to the House and Senate Appropriations Committees. There the various parts are referred to subcommittees.

The House Committee, for example, has 13 subcommittees. There are subcommittees for agriculture, and environmental and consumer protection; for housing and urban development, space and science; for labor, health, education and welfare; for the Treasury, Post Office, and general government—plus others.

In theory, the full Committee controls these appropriations bills. In practice, the subcommittees have almost complete say-so in their own spheres.

For one thing, they become experts in their specialized fields. So members of one subcommittee tend not to challenge the decisions of the others.

When the subcommittees have finished, their recommendations are lumped together in an overall appropriations bill.

Obviously, this catch-all measure may or may not reflect the judgment of the full Committee. It represents a collection of decisions delegated to a lower level.

Sound like a weird way to run our biggest institution—the federal government?

Well, there's more.

FALSE CEILINGS

Before voting any money, the Appropriations Committees usually wait for a green light from other policymaking committees of Congress.

Each house has about 20 of them, with numerous subcommittees. They set an authorization, or spending ceiling, on all programs, new and old.

Sometimes these ceilings are quite misleading.

They may be set high in full knowledge that far less money will actually be appropriated. In this way, Congressmen can make what seem to be lavish, multibillion-dollar promises, with the comforting knowledge that they won't be kept.

Or they may grossly understate full costs by setting only short-term ceilings on long-range projects. In this way, Congressmen can let a pet program get its foot in the door—apparently dirt cheap.

Only later do taxpayers find that, over the years, costs skyrocket. Medicaid is a good recent example.

So much for spending.

Now for raising the money to pay for it.

The committees that spend have nothing to do with paying the tab.

That's the job of two other committees—the House Ways and Means Committee and the Senate Finance Committee. They write the tax laws, change the rules, raise the rates or lower them.

At no point does any Congressional body say: "Here's how much we want to spend. Here's what it's for. Here's how we'll get the money to pay for it."

Or, better still: "Here's all that we have to spend. And here's how we'll stretch it to cover our priority needs."

Unfortunately, a long time ago, Congress let the ultimate authority for fiscal responsibility gravitate to the White House.

Today, the only place where a budget is put together is in the Office of Management and Budget in the Executive Office of the President.

About all Congress does is look at the priorities set by OMB and add or subtract a few items.

A LACK OF MACHINERY

Congress lacks the machinery to arrive at its own priorities.

All too often, it increases a budget rather than prunes it. For example, in the last session, its impact on the President's budget was to increase the deficit by some $9 billion before Presidential vetoes whittled that down to $5.76 billion.

Under this system, quite predictably, efforts to control federal spending have flopped. Here's how the federal budget has climbed in the past few fiscal years:

From 1968 to 1969, up nearly $6 billion.

From 1969 to 1970, $12 billion.

From 1970 to 1971, nearly $15 billion.

From 1971 to 1972, more than $20 billion.

It's estimated that from 1972 to 1973, the rise will be as much as $25 billion.

The red ink on our balance sheet presents an even more dismal picture. Federal deficits from fiscal 1970 through 1973 will total an estimated $84 billion—or approaching one fifth of our national debt.

Nor is the future any brighter. A recent American Enterprise Institute study estimates these deficits, even on a so-called "full employment" basis, at $5 billion in 1973; $14 billion in 1974; $22 billion in 1975.

It's quite apparent that growing federal spending has brought us to a crisis stage. This fiscal crisis affects every American.

Over 10 per cent of the average family's taxes go to pay the interest on our national debt—which is approaching $500 billion.

And the country is embarking on a new spending spree—for so-called social needs. Washington has an ingrained belief that if anything is wrong, anywhere the cure is to throw money at it.

This year, federal spending on education, manpower, health, housing, civil rights and other social programs will add up to $122 billion. That's about half of Washington's total expenditures.

A FRESH APPROACH

It's time to try a fresh approach. We can't provide essential social needs within an expanding economy without a sound budgetary process.

What is needed is thorough reform of the way in which Congress handles spending and tax measures.

To meet this crisis, I will reintroduce a bill I submitted at the last session: the Federal Act to Control Expenditures and Upgrade Priorities.

If passed, it would require not only Congress as a body, but each individual member, to face up to his duty to curb spending. My bill contains five points:

It would amend the House and Senate rules to create a Joint Committee on the Budget.

This Committee would develop a legislative budget—as opposed to an executive budget—providing a way to establish priorities and control expenditures.

It would require five-year budget projections for every major category of federal spending.

This would compel Congress and the Executive branch to acknowledge fully the long-range costs of spending programs. All too often, in the years after they've passed Congress, federal programs' costs have ballooned. It is no longer acceptable to evaluate project spending on a one-year basis, as in the past.

It would require reevaluation of spending programs every three years.

The purpose of this is to ensure periodic Congressional review of all important federal programs. The trend today is to add new programs without even attempting to do away

with those that are outmoded and useless. As a result, the government gets bigger and bigger and bigger.

It would require consideration of at least two years' pilot testing of every proposed major program.

This would provide Congress, and the country, with a better estimate of the costs and benefits of new federal projects. No prudent businessman would promote a new product nationwide without some preliminary market testing. I feel government should use the same prudent approach with tax dollars.

Money for all federal spending, including that of the trust funds, would have to be appropriated annually by Congress.

At present, more than 800 of these federal trust funds are not subject to this kind of annual review by Congress.

Instead, they have a permanent spending authority. This spending adds to our huge federal deficits and should be subject to some review and discipline.

HOW MANY—AND HOW MUCH?

The government has lost its sense of purpose in developing federal programs. New ones are hastily concocted with little or no knowledge of what's already in existence. Duplication is the order of the day.

Let's take just one example.

Today, we have more than 1,050 federal domestic assistance programs.

Many overlap. This makes it almost impossible to find out how many people are getting aid—and how much. It also leads to a great deal of waste and inefficiency.

Making matters worse, it's hard to determine what good the program is doing, if any.

The five-point plan I have outlined will bring about long-needed reform in the budgetary process if passed by Congress.

It permits Congressional control over federal pending and, at the same time, a constant review and upgrading of national priorities.

If Congress does not put an end to the spending spree, we face two alternatives: Taxes will go up—or a new surge of inflation will boost prices even higher.

Neither is acceptable to me, nor tolerable to an already overburdened free society.

SENATOR CHURCH TESTIFIES ON IMPOUNDMENT AND EXECUTIVE EMERGENCY POWERS

Mr. CHURCH. Mr. President, I ask unanimous consent that my testimony yesterday before the Senate Judiciary Subcommittee on Separation of Powers concerning the current Constitutional crisis confronting our country in regard to Executive impounding of congressionally appropriated funds and Executive emergency powers be inserted in the RECORD.

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

TESTIMONY BY SENATOR FRANK CHURCH BEFORE THE SENATE JUDICIARY SUBCOMMITTEE ON THE SEPARATION OF POWERS, JANUARY 30, 1973

Mr. Chairman, I am pleased to have this opportunity to come before the Senate Judiciary Subcommittee on Separation of Powers and present my views about the current Constitutional crisis confronting our country, and specifically to testify on behalf of S. 373, a bill to protect Congress' power over the public purse by restricting the practice of Executive impoundment.[1]

Article I of the Constitution explicitly states that Congress is an equal and separate branch of government, exercising exclusively prescribed powers in some cases and sharing powers with the Executive branch in others. In no case, does the Constitution contemplate that the role of Congress is to merely underwrite the power of the Executive branch. I have offered and worked for legislation to strengthen the rightful role of the Congress to share with the Executive on a coequal basis, the formulation of national policy, whether it be in matters of war and peace, the allocation of American assistance abroad, strengthening our social security system here at home, improving our environment, or steering budgetary priorities along the path of productive and needed social services. The history of our nation provides ample proof that if the separate branches remain strong and vital they are an effective system of checks and balances on the exercise of unfettered power; this system of restrained power is the bedrock principle on which our political system was founded and has been the very genius of our form of government. As Aristotle noted long ago, "If liberty and equality . . . are to be founded in democracy, they will be best attained when all [institutions] share in government to the utmost."[2] In this regard, Congress' prime role is its power over appropriations and directing the allocation of federal funds. Or, to put it as the distinguished Chairman of the Judiciary Subcommittee on the Separation of Powers so concisely did recently, "The power of the purse belongs to the Congress, and Congress alone."[3] This power is the key to Congress' independence, influence, and integrity.

IMPOUNDMENT

Under the Constitution, the right to appropriate belongs to Congress. Article I, Section 9.7, of the Constitution reads, "No money shall be drawn from the Treasury but in consequence of appropriations made by law . . ." In this century, however, through a process of subtle attrition, Congress has gradually surrendered this traditional wellspring of strength. For example, the Budget and Accounting Act of 1921[4] enlarged the President's spending discretion and established a procedure whereby the Executive no longer needed to send up to Congress itemized budget requests as had been the custom, and replaced this procedure with a budgeting and appropriating system based on a "keep the faith" attitude among executive officials and appropriations committees.[5] The Act also created the Bureau of the Budget, now reorganized into the potent Office of Management and Budget. This legislation has, over a period of years, tilted the balance of political power clearly in favor of the Executive. Instead of "More Power to Congress!" as was the Hamiltonian demand during the discussions preceding the Philadelphia convention in 1787, Congress, divesting itself of its own power, granted "More power to the Executive!"

Through the growth of "central clearance," then, the appropriations power, once exclusively a legislative function, emerged as a strong new arm of the Executive. One observer suggests with devastating candor that "Congress, according to the Constitution, must appropriate—but what is appropriated, speaking very generally, is what is presented to them by the Administration."[6] The growing volume and complexity of governmental transactions, and the flexibility with which they must be handled in the absence of Congressional efforts to adapt its procedures to handle greater complexity, inevitably has led to increased Executive control over public spending. In the light of the major role that the Executive branch has assumed, the importance of safeguarding what remains of Congressional power over the purse is manifest.

Executive impoundment represents a clear threat to that remaining Congressional power, as recent history illustrates. In my view, it was during the Roosevelt Administration, acting under a continual state of emergency in the Depression and later in World War II, that Executive impoundment changed its character from that of simple economy measures and became a widely used instrument for Executive policy. From 1933 on, a quantum jump occurred in the frequency of impoundment. Measures were passed by Congress to permit President Roosevelt to pursue those activities he deemed necessary to ease the economic crisis of the Thirties; and, similarly, during the Forties Congress supported the President in his policy of deferring projects which he believed might absorb funds required for the war effort.

Throughout this period of crisis, the Executive branch based its rationale for impounding funds chiefly upon the war powers of the President. Writing a year after America's entry into the war, a leading proponent of a strong presidency, Professor Edward Corwin, concluded: "The chief lesson of the war to date for constitutional interpretation is that the Constitution is an easily dispensable factor of our war effort—perhaps one might say an 'expendable' factor." Professor Corwin underlined part of the problem:

"In its control of the purse strings, Congress possesses its most effective check on Presidential power. At best, the promise of this rule is seriously impaired by war, inasmuch as legislative prying into Presidential budgets at such a time always involves the danger of revealing military secrets."

Congressional abdication of its "most effective check on Presidential power," the power of the purse, was, thus, directly linked to the war. However, several Members of Congress, I am happy to note, were clearly unhappy about their wartime "expandability" and were concerned that the claimed emergency powers might become normal powers. A legislative amendment introduced by Senator McKellar in 1943 was "the first across-the-board curtailment of the Budget's impounding procedure to be accepted by either House of Congress."[7] After passing the Senate by a voice vote, the McKellar amendment was resoundingly defeated in the House, the floor debate over the issue, however, made it evident that even given the wartime emergency, many influential Members believed that the Executive had stepped into Congress' domain and a Constitutional crisis was in the making.

The record on impoundment since the war discloses that—far from abating—the practice has grown markedly, expanding beyond the general area of "national defense" to challenge frontally Congressional control over all aspects of civilian spending.

CURRENT CONSTITUTIONAL CRISIS

Breaking the Executive's hardening habit of impoundment is now one of the crucial tests before us—if Congress and Constitutional government are to survive. To salvage a position of power and policy, both bodies of the Congress must draw the line; Members need to live up to their oath of office and join together in a concerted effort to restore the power of the purse as required by the Constitution. Your bill, Mr. Chairman, S. 373, which I wholeheartedly cosponsor, requiring the President to come to Congress for affirmative votes by both Houses for each specific instance of impoundment, is a fitting legislative bulwark on which to stand and fight. The Supreme Court, represents, one would hope, another forum for fortifying Congress' dominant position in regard to control over the purse[8] where suit might be sought against the Executive for impounding federal funds.[9] As you are aware, Mr. Chairman, I have given the subject of executive impoundment some detailed thought, and I very much appreciate the fact that my Stanford Law Review article of June 1970 entitled

Footnotes at end of article.

"Impoundment of Appropriated Funds: The Decline of Congressional Control Over Executive Discretion" was made a part of this Subcommittee's March 1971 hearings.[10] Since I wrote that law review article, however, the situation has worsened. According to recent press reports,[11] the Nixon Administration is currently withholding, freezing, and impounding at least $12.2 billion of appropriated funds; and according to some experts, that figure may be too low by several billion dollars.

Seen with startling regularity now are references to the impoundment of funds for highways, for combatting water pollution, for housing, for flood control projects, for hospital construction, for medical research, and other important domestic programs. Is Congress to pass legislation creating and funding programs and then plead with the White House to release the funds to implement duly enacted laws? Surely not! As Thomas Jefferson wrote long ago, "An elective despotism was not what we fought for," in our War of Independence.[12] The words of a Senator who served in this body during World War II, speaking on the impoundment issue are even more poignant today: "Then how does the Congress express itself or announce a Congressional policy? After all, we represent the people." [13]

If the United States is to preserve its democratic institutions, the President cannot be allowed to continue his self-appointed privilege of ignoring a mandated appropriation.

CONSTITUTIONAL AND POLITICAL IMPLICATIONS

What are the Constitutional and political implications of executive impoundment? Louis Fisher, a learned authority on this issue, pursuing the answers to this question, has observed, "A *constitutional* issue emerges only when Congress finds a legislative program cancelled or abbreviated because the President considers the purpose unwise, wasteful, or inexpedient. He then no longer operates on the basis of legislative authority. On the contrary, he matches his will against that of the Congress." [14] This kind of arbitrary behavior by the Chief Executive, who, according to the Constitution, is supposed to see that "the laws are faithfully executed," is illegitimate and a threat to representative government. As one author concluded, "The high Constitutional duty to see that the laws are faithfully executed does not confer upon the President the discretion to determine what law shall be executed and how much." [15]

Those who have carefully examined the range of court decisions bearing on the impoundment issue have concluded that no cases involve the problem directly, and those cases that are of tangential significance fail to settle the issue.[16] "The relationships between the President and Congress are essentially political," a Constitutional authority observes, "and are to be solved by the operation of the political process, not by resort to legalistic arguments." [17]

Recognizing that the Constitution offers no specific guidelines concerning the "reserving" of appropriated funds, it is nonetheless plain that the authors of that document did not intend to give the Chief Executive an absolute veto over public spending. No item veto is specifically granted to the President by the Constitution, and the provision for overriding a veto upon a two-thirds vote lends credence to the proposition that the President has no Constitutional power to veto legislation absolutely. If the President or his subordinates are permitted at will to refuse to spend funds after an appropriations statute has been signed into law, then in essence these officials have "an absolute veto exercised without danger of being overridden by a two-thirds vote of Congress." [18]

The Constitution in certain specific cases seems to grant to Congress actual affirmative power rather than the right merely to limit spending. In the military sphere, for example, the constitutional prerogative of Congress to "raise and support armies" and to "provide and maintain a Navy" carries with it the implication that Congress may ensure that the funds for these military activities are expended in the manner determined by Congress. Similarly, in other areas of spending, the congressional power of the purse is not simply negative power to establish a ceiling, but rather a full and positive authority to compel expenditure of the funds.[19] A former Assistant Attorney General and now Associate Justice of the Supreme Court, stated, "with respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent." [20] Every refusal by the President to execute a program or project, once made law, is nothing less, then, than the exercise of a patently unconstitutional absolute veto.

A vital ingredient of democracy in our country is the opportunity afforded diverse political interests—civic groups, government agencies, private citizens, and others—to appeal in a meaningful way to the Congress, the courts, and the Executive branch to advance the policies they favor. Once it is widely recognized that a project may be entombed by the Executive branch—even when a convincing case has been made before the Congress and after due deliberation monies have been appropriated—the American people will sense the futility of appealing to their elected representatives. They will conclude, if they haven't already done so, that the Executive branch is the only significant arena for policy making. This undermining of confidence in the ability of Congress to act with authority on appropriations will eventually destroy what public reliance remains for the Legislature and thereby increase the power and authority of the Executive to the detriment of our system of separate institutions acting as checks and balances on one another.

The argument most readily embraced by proponents of impoundment may be stated generally as follows: The question of freezing funds is fundamentally of a political nature, and, in an era demanding administrative speed and efficiency, presidential discretion over funds is imperative. Hence, Fisher tells us:

"The struggle between the President and Congress over impounded funds is essentially political. The decisive appeal is not to legal principles and Court decisions but to constituencies and agency support . . .

. . . Since the President lacks an item veto, he must impound the unwanted funds to preserve his budgetary objectives and maintain control over his own executive officials.[21]

Miller suggests: "The answer is not to be deduced from the Constitution itself but is to be decided on the grounds of policy. This, in turn, means that the President can and may withhold expenditure of funds to the extent that the political milieu in which he operates permits him to do so." [22] We are told that impoundment is "an essential instrument for protecting budgetary policy and avoiding unnecessary and costly programs" and that "Presidents exercise this power with considerable restraint and circumspection." [23] But who is to determine what programs are unnecessary, or when the President has used circumspection in freezing funds? Surely the President alone should not, or worse still, some lower-echelon official within one of the executive agencies.

Proponents of this view seem to confuse the nature of the budgetary process with the impounding issue. The distinction is that legislative determination of appropriations is a process of bargaining and persuasion; once the appropriations are passed, however, it becomes the constitutional obligation of Congress "to compel the funds to be expended." [24] Politics, bargaining and compromise, yes, when it comes to deciding the merits among competing requests for scarce resources; politics and bargaining, no, when the laws of the land are to be carried out. Given the President's veto and his obvious influence over the whole budgetary process, there is good reason to question the motivations for trying to obstruct the intent of the Constitution. Clearly, impoundment subverts the tradition of balanced government by challenging Congress' most important instrument for making policy and for monitoring the executive branch.[25]

LEGISLATIVE REMEDIES

Clear purposeful legislation offers the best remedy for Congress to use to pry loose impounded funds and eventually to stop the Executive of its unconstitutional habit.

The Congress should use specific, mandatory language in its drafting of legislation, such as "The Congress directs" rather than "The President may." This approach, coupled with adopting specific minimum levels, below which the Chief Executive could not go, would establish expenditure ground rules clearly. For instance, in 1958, President Eisenhower "wanted to reduce the strengths of the Army Reserve and the Army National Guard, both of which had strong support in their local communities. Congress retaliated by providing mandatory language to maintain the strength at higher levels." [26]

Old fashion political pressure is another tack Congress can take. Before the 1970 elections, President Nixon withheld education funds which stimulated widespread criticism from school districts; two weeks before election day, the Administration released the money. When HEW Secretary Richardson was asked whether the upcoming elections had prompted the Administration to pry loose the funds, he replied wryly, that there was "no connection whatsoever." [27]

If any remedy is to assure that programs, once funded, are carried out as mandated, Congress must strengthen and regularize its review of Executive compliance with Congressional appropriation. At present, once an appropriation is passed, Congress usually loses sight of it. There is no regularized process for following an appropriation to see that it is spent in the legislatively prescribed manner. Moreover, the Office of Management and Budget is unwilling to release to the Congress necessary information on so-called "reserved" funds.[28] It is, therefore, apparent that for any remedy to be effective, Congress must provide for itself some means for obtaining the data necessary to determine whether to invoke that remedy. For instance, legislation passed last year requires the Administration to make prompt and full reports to Congress on its fund-freezing actions. The first report is due on February 10, 1973. Also, there is legislation in the Foreign Assistance Act of 1971 making the obligation or expenditure of funds available under the Foreign Assistance Act and the Foreign Military Sales Act contingent upon the release of certain impounded funds. The General Accounting Office, which was required to certify that the OMB had released over two billion dollars for programs administered by USDA, HEW, and HUD reported that these impounded funds had been released by the set deadline.[29]

Your Impoundment Control Bill (S. 373) goes further, requiring the President to make comprehensive, public reports to Congress within ten days after impounding appropriated funds. Congress will thus have 60 days in which to pass a resolution agreeing to the President's action. If, during the 60 days, Congress fails to approve the President's action, the President will be required to stop the withholding of funds and to proceed to apportion them as Congress directed. In effect, the President will be able to submit a revised budget for consideration by Congress,

Footnotes at end of article.

but it still will be up to Congress to make the final decision—as it should be.

We all shoud admit that Congress must do a better job of examining the massive federal budgets which are sent to Capitol Hill each year. Last year, both Houses created a joint committee to recommend procedures for dealing with expenditure control and the setting of an annual appropriations ceiling. I would hope that this would lead to a creation of a Joint Congressional Committee on the Budget which would eventually be capable of drawing up a budget itself.

In order to restore the Constitutional balance, Congress must recover, in addition to the power of the purse, still other powers it has delegated to the Executive branch over the last several decades. In this regard, I want to call to your attention, Mr. Chairman, the work of the Special Committee on the Termination of the National Emergency, a newly authorized bi-partisan group of which our distinguished colleague from Maryland, Senator Mathias, and I are Co-chairmen. The Special Committee, composed of four Democrats and four Republicans, is now engaged in a study of all emergency powers legislation now in force and, in particular, the question of terminating the national emergency declared by President Truman on December 16, 1950, which, after 23 years, is still in effect. The focus of the constitutional imbalance now evident in our country is largely due to the existence of extended emergency situations throughout this century, wars as well as economic depressions.

The Special Committee study has already determined that the Trading with the Enemy Act of 1917 and the Banking Act of 1933 provide the President with enormous emergency powers in time of peace as well as war to control the flow of privated money within and outside the United States. Section 5(b) of the Act of October 6, 1917, as amended, remains the basis for many of the executive emergency powers now on the statute books. For instance, the Executive branch, in February of 1968, restricted transfers of capital to foreign countries by substantial U.S. investors and required repatriation by these investors of holdings they held abroad, basing its authority on Section 5(b). The Attorney General gave the opinion that:

"The power of the President to regulate foreign investment by persons subject to the jurisdiction of the United States during a period of declared national emergency is supported by the clear language of Section 5(b), which has been the foundation for a variety of Executive controls of domestic as well as international financial transactions."

In order to call Section 5(b) into force a state of national emergency is required. Conveniently, the Attorney General was to justify the bypassing of Congress by declaring that:

"The national emergency declared in Proclamation 2914 of December 16, 1950, continues in existence for the purposes of Section 5(b)." [30]

The Special Committee intends to examine in detail the more than 250 existing statutes and the Executive Orders based upon them which, upon the declaration of a national emergency by the President or Congress, or both, give to the President extraordinary powers. These powers extend to every aspect of American life. Through these emergency powers, the Executive may mobilize the means and methods of production, control the distribution of foods, goods, and services, strictly regulate wages and prices, purchase or seize property, control communication and transportation, restrict travel, commerce and, in some cases, curtail personal liberties.

I support the view that the President must be able to act quickly and effectively in an emergency. The Constitution, however, already gives him that authority and responsibility. The Special Committee is now examining the need for those emergency statutes no longer justified due to changed circumstances, and to extend those that, in the judgment of Congress, are still necessary. The Special Committee also intends to examine and consider a number of proposals that will establish a regularized procedure by which the Executive and Legislative branches can act, within the framework of the Constitution, in order to meet future emergency situations.

To carry out this study, the Special Committee will be making a thorough review of existing orders and statutes, and procedures stemming from these. The Special Committee will also conduct hearings, receiving testimony from Administration witnesses, authorities on Constitutional law, and members of former Administrations familiar with executive emergency powers.

On the basis of this study and investigation, the Special Committee will make its recommendations for legislative action to the Senate.

In a letter commenting upon legislation creating the Special Committee, the State Department wrote, "The Executive branch has no objection to such a study. It would be happy to cooperate." Senator Mathias and I have already called on Attorney General Kleindienst and he has expressed his willingness to extend the assistance of the Justice Department in exploring the thicket of existing law. We will shortly call on the Secretary of State and the Secretary of Defense and other heads of Departments and agencies affected by emergency legislation to ask their cooperation and help in arriving at a procedure mutually agreeable to the Executive as well as the Legislature.

Mr. Chairman, as you are the Senate's leading expert on the Constitution, I hope that you will follow our work closely, and I hope we can call on you for advice and assistance as we move ahead and hold hearings.

Whether the issue is impoundment or emergency powers, the need for Congress to recover its normal role in these Constitutional matters is overriding. Not only must Congress retrieve powers it gave away, it must hold them in a firmer grip. As Justice Jackson wrote in his opinion of Youngstown Sheet & Tube Co. v. Sawyer in 1952, "Power to legislate . . . belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers."

FOOTNOTES

[1] For the purposes of this testimony, impoundment means when the Executive branch consciously decides not to expend appropriated funds according to the expressed intent, if not actual direction, of Congress.

[2] *Politics*, Book IV, Chapter 4.

[3] New York Times, Jan. 22, 1973.

[4] Act of June 10, 1921, ch. 18, 42 Stat. 20.

[5] Fisher, "Presidential Spending Discretion and Congressional Controls," *Law and Contemporary Problems*, Winter 1972.

[6] Miller "Presidential Power to Impound Appropriated Funds: An Exercise in Constitutional Decision-Making, 43 N.C.L. Rev. 506 (1965).

[7] Williams, "The Impounding of Funds by the Bureau of the Budget," Inter-University Case Program No. 28, 1955, 6.

[8] On January 2, 1973, eighteen U.S. Senators filed an amicus curiae brief in the case of Missouri Highway Commission against Volpe.

[9] Rep. George E. Brown, Jr. vs. Adminstrator, U.S. Environmental Protection Agency; See Congressional Record, Jan. 23, 1973, H404. Another example of litigation is the suit filed by Campaign Clean Water, a group of Virginia conservationists, against the Environmental Protection Agency to force its administrator to release the full $11 billion approved by Congress for grants to states under the 1972 Water Pollution Control Act.

[10] See also Church, "Of Presidents and Caesars: The Decline of Constitutional Government and the Conduct of American Foreign Policy," 6 Idaho Law Review (1969).

[11] Washington Evening Star News, January 15, 1973.

[12] Thomas Jefferson, Notes on Virginia, Query 13, Jan. 14, 1784.

[13] Remarks of Senator Holman quoted in Williams, "The Impounding of Funds by the Bureau of the Budget," Inter-University Case Program No. 28, 1955, 6.

[14] Fisher, "Funds Impounded by the President: The Constitutional Issue." 36 George Washington Law Review, 124, 125–26 (1969) (Emphasis in original).

[15] Goostree, "The Power of the President to Impound Appropriated Funds: With Special Reference to Grants-in-Aid to Segregated Activities," 11 American University Law Review, 32, 39 (1962).

[16] L. Fisher, "Funds Impounded by the President: The Constitutional Issue," 38 George Washington Law Review, 124 (1969). See my Stanford Law Review article, 1249, a listing of cases pro and con impoundment.

[17] Miller, *Op. Cit.* 544.

[18] S. Huntington, "The Soldier and the State, 1957, 427.

[19] W. Morrow, Congressional Committees, 1969, 161.

[20] Memorandum from Assistant Attorney General William H. Rehnquist to Edward L. Morgan, Deputy Counsel to the President, Dec. 1, 1969, at 8.

[21] Fisher, "Funds Impounded by the President . . ., 136.

[22] Miller, *Op. Cit.*, 533.

[23] *Ibid*, 137.

[24] Huntington, *Op. Cit.*, 15.

[25] Professor Reagan writes: "(I)f the legislature doesn't legislate vigorously, why should it bother to meet at all? So runs a commonly accepted standard for evaluating Congress' performance. . . . A more sensible criterion for deciding how effectively Congress has acted is this: How well has Congress monitored the bureaucracy? How active has it been in criticizing, prodding and pushing the departments and agencies? This function, I maintain, is *the* essential task of Congress today. If it performed well, then Congress has earned its keep, no matter what its legislative output in a given session." M. Reagan, Monitoring the Bureaucracy: Congress' Most Important Task, December 1969, at 1–2 (unpublished manuscript) (emphasis in the original).

[26] Fisher, "Presidential Spending Discretion and Congressional Controls."

[72] Washington Post, October 23, 1970.

[28] Memorandum from Robert P. Mayo to Senator Sam J. Ervin, May 1969.

[29] See 117 Congressional Record, Dec. 17, 1971, S21, 903 (daily ed.) and 118 Congressional Record, May 3, 1972, H4, 098 (daily ed.),

[30] Opinion of the Attorney General of the U.S., February 3, 1968, regarding Executive Order 11387 of January 1, 1968, 33 F.R. 47.

REVENUE SHARING

Mr. STEVENSON. Mr. President, last year I was one of the Members of this body who spoke against the concept of general revenue sharing. Prior to the vote adopting the revenue sharing conference committee report, I said:

Revenue sharing is a governmental monstrosity; giving away the taxpayer's money for state and local governments to spend as they please is not sound policy either for the federal government or for the state and local governments.

We are now embarked upon the uncharted course of general revenue sharing at a time when the Federal Government faces a $25 billion budget deficit, which State and local governments in the aggregate face unprecedented budget

surpluses. The Federal Treasury will give away over $8 billion this year with no regard to whether the funds are directed to our most pressing needs. The President simultaneously intends to impound billions of dollars for education, health, the environment, and housing.

The concept of revenue sharing is as dangerous for State and local governments as it is for the Federal Government. I predicted in the debate on revenue sharing that under revenue sharing,

> The States and localities will become increasingly dependent upon the federal government for their financial sustenance. As they become more dependent, they will become, not revitalized, but more vulnerable.

I am pleased that some local officials have sensed the same danger. In my own State of Illinois, some have told me they simply do not know what to do with the Federal payments and are investing in U.S. Treasury obligations—lending the funds back to the Federal Government with interest. The Lee County board conducted extensive debate on the question of whether to accept its $62,000 revenue-sharing payment. Led by Donald Burke, 11 members of the county board voted to reject the handout.

Mr. President, I ask unanimous consent that two articles from the Dixon Evening Telegraph describing Mr. Burke's valiant efforts and an editorial from the Rockford Morning Star, be printed in the RECORD.

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

[From the Dixon (Ill.) Evening Telegraph, Nov. 15, 1972]

BURKE PROPOSAL TO REJECT REVENUE SHARING VOTED DOWN

(By Robert H. Nellis)

Donald F. Burke's proposal to reject any federal revenue-sharing funds was defeated yesterday by a 16-to-11 vote even though his resolution was seconded by County Board chairman, A. H. Fraza, and that he pointed out both of Illinois' U.S. senators voted against the revenue-sharing measure when it came before the Senate.

Burke contended local government's acceptance of federal revenue-sharing will work against efforts to eliminate federal bureaucracy and that if it is considered as tax relief, the best way for that to be achieved is for the federal government to reduce the amount it collects from citizens.

He declared the U.S. deficit has gone up $80 billion during the last three years and that projections are the U.S. debt will increase by $23 billion this year; by $45 billion in 1973, and $25 billion in 1974.

Burke predicted 1975 will see federal tax increases of $21 billion; $13 billion in 1976 and $6 billion in 1977.

"This money has to come from someplace," Burke asserted, "and it will come from higher federal income taxes or national sales tax," he predicted.

The District 3 board member, who is a member of the Finance Committee, explained the $325,000 the country will receive in the next five years will not reduce local taxes enough to offset the increases of federally imposed taxes which will occur because of the revenue-sharing program.

Burke also argued local government has a different relationship to state government than it does to the federal government.

"The county is a creature of state government. It was created by the state. The state is responsible for local government.

"But this is not the relationship between the local government and the federal government. The federal government was created by the states and the state and federal governments have a relationship much like that between local and state governments.

"If county government allows itself to become independent on the federal government by accepting direct handouts, it is only the beginning of federal intrusion into local government affairs."

Burke prophesied, "If federal revenue sharing goes out all over the country to local government, somebody is going to foul up and there will be scandals.

"Then Congress will decide that it has to supervise the use of federally shared revenue.

"I can see the day coming when every unit of local government will have to submit to an audit by a federal agency."

Support for the idea crossed partisan party lines when Fraza seconded the motion, calling the federal revenue-sharing notion "a move forward to the socialistic state."

Fraza, from District 4, is also a Republican precinct committeeman, and Burke is chairman of the County Democratic Central Committee.

The first response came from Warren Faber, also a member of the Finance Committee and from District 2, and he is a Republican precinct committeeman and vice chairman of the Republican Central Committee.

He declared federal revenue sharing should be a concern for Lee County, for receiving it and passing it along to taxpayers by reducing tax rates could start a snowballing effect.

"If the Lee County Board would take even this small amount (about $65,000) and get it back to each taxpayer, we could set an example for the city of Dixon and the school boards to follow," he averred.

"This board should set an example for other public bodies to follow," continued Faber.

Fraza retorted, "Why collect it in the first place if the federal government is going to give it back to us. It only gives people on the public payrolls more work."

J. Herbert Henning, District 3, also a member of the Finance Committee and also chairman of the Republican Central Committee, took a different attack on Burke's proposal.

"Lee County has received $120,000 from state income tax sharing, and without this we could not have lived within our budget," contended Henning.

Not mentioning any names, Henning referred to a Dixon city commissioner who has been aggressively seeking state funds for assistance in Dixon landfill operations. The commissioner is James G. Burke, brother of Donald.

Still not mentioning any names, Henning remarked one of the individuals seated up front recently applauded the state grant from the Illinois Law Enforcement Commission. This time he was referring to Fraza.

"Without revenue sharing from the state income taxes, we'd have been flat broke before now," stressed Henning.

Burke reminded Henning the relationship between the state and local government is different than the relationship between local government and the federal government.

"Acceptance of these funds directly from the federal government is a revolutionary change in the historic relation.

"We can sell our soul to the federal government, if we wish, but be warned that where federal money goes federal power also goes," darkly prophesied Burke.

After defeating Burke's motion on a roll-call vote, the board accepted a motion made by Faber which, he said, was made in behalf of the Finance Committee, which stated any federal revenue-sharing funds received be used to reduce taxes.

How board members voted on the question whether to reject any federal revenue-sharing funds (a yes vote is to refuse the funds)—YES, Balser, Burke, Conroy, Considine, Dunphy, Erickson, Fraza, Gittleson, Kant, Rogers, Wegner, 11; NO, Allen, Beggs, Bulfer, Burrs, Faber, Green, Hanson, Henning, Huffman, Kesselring, Koch, McReynolds, Norden, Selgested, Topper, Padgett, 16, Thompson was absent when the vote was taken.

[From the Dixon (Ill.) Evening Telegraph, Nov. 1, 1972]

DON BURKE LASHES OUT AT REVENUE SHARING PLAN

Donald F. Burke, County Board member from District 3, today said he will request the board reject all federal sharing money and to return any funds received to the federal government.

"The whole concept of federal revenue sharing is ill-conceived and represents a new concentration of power at the national level," Burke declared, and suggested, "it increases the dependency upon the federal government by local governments."

The board member, who is on the Finance Committee, charged "This system of revenue sharing is a local officials' dream. We can now spend money without the responsibility for taxing the people for the funds.

"What the federal government is doing is like a father who takes the money his children earn and uses it as he sees fit, returning a small portion of it to them as an allowance.

"He would be the meanest father in town, but when the federal government does it, its supposed to be something great," Burke snapped.

Burke challenged the idea that revenue sharing will lower property taxes as being "ridiculous," pointing out "If we used all our county revenue sharing funds to lower property taxes it would make a reduction of six-tenths of one per cent."

He explained this means a person owning a house valued at $20,000 would have a saving in his annual tax bill of $3.

"We should remember," Burke suggested, "that for every dollar we send to Washington we get 54 cents in return, and in order to reduce property tax bills by $3 a year, we must pay $5.60 in federal taxes.

"Anyone who calls this tax relief must have an unusual sense of humor," scoffed Burke.

"We don't have to be mathematicians to figure out you cannot reduce property taxes by redistributing tax revenues. The only way to reduce taxes is to reduce spending," stressed the Southside board member.

Burke further complained, "In light of the $80 billion deficit of the federal government during the past four years, it is obvious we are not sharing revenue.

"We are sharing the federal debt. But even the federal government has a limit to what it can borrow, eventually the bill must be paid," he prophesied.

"In the case of revenue sharing, the bill will come in the form of income tax increases or a new national sales tax," Burke predicted.

He contended there is no way the federal government can assume the financing of state and local government on a continuing basis without providing a means for raising the money to pay the costs.

"Revenue sharing is a permanent program that must be financed through immediate and permanent tax revenues," Burke alleged.

"Revenue sharing has been hailed as revolutionary," apprised Burke, "and that it is.

"It changes the basic relationship between our national, state and local governments that have stood for almost 200 years.

"This new relationship will not be one of partners, but one of dependents," the board member insisted.

Burke warned any step taken to shift this responsibility and control from the local level to the national level, "which is so far

from us, should have come only after long and thoughtful public discussions.

"It doesn't seem possible a bill of this magnitude could move through Congress with so little discussion or opposition.

"And it is harder to believe that of the tens of thousands of local officials, not one voice was heard in opposition. Not one voice was heard pointing out the long-term effects of this action.

"But, then it is probably impossible to speak out when you have your hand outstretched and a grin on your face," bitterly concluded Burke.

[From the Rockford (Ill.) Morning Star, Nov. 16, 1972]

CASH COUNTS, NOT IDEALS

Donald F. Burke has failed in his lonely attempt to turn down a $62,000 handout from Uncle Sam.

Burke, a member of the Lee County Board, doesn't see the federal revenue sharing program as the panacea for all the ills of local government. Moreover, he sees local governments being lured into a federal spider web.

Putting his unpopular convictions out where everyone could see them, Burke proposed to the county board Tuesday that it say "thanks, but no thanks," to the federal government when it gets around to distributing the revenue sharing funds.

In his appeal, Burke theorized that the program would add to the government's deficit, rather than provide tax relief. He predicted the day would come when the federal government would begin auditing all the books of local governmental agencies.

Ten board members voted with Burke, some of them undoubtedly certain their votes were safe expressions of philosophy that wouldn't cost the county any money. There were 16 votes against Burke.

Burke was right. Revenue sharing is going to cost the nation a lot of money. And federal red tape will be pervasive.

But he wasn't realistic. It's not likely that any government—state, city or county—is going to be so guided by ideals and philosophies that it will turn down any offer of money at any time.

ADDRESS BY JOHN D. GRAY

Mr. PACKWOOD. Mr. President, I invite the attention of Senators to the text of an address delivered by Mr. John D. Gray, Oregon land developer and chairman of Omark Industries, before the annual convention of the National Association of Home Builders in Houston, Tex., on January 8, 1973. The substance of Mr. Gray's remarks is an urgent plea that developers consider environmental needs when they build. He maintains that such consideration can increase rather than decrease a developer's profits. I ask unanimous consent that Mr. Gray's remarks be printed in the RECORD.

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

LAND USE: PROFITS AND ENVIRONMENTAL INTEGRITY

(By John D. Gray)

When a speaker can feel that he's among his own while addressing an audience, then he understandably is most at ease. Being among friends of common interests also makes it easier for him to speak with a kind of candor that is usually possible only among those who share with him similar problems and goals.

Just as are most of you, I am a land developer and a home builder. As such, I certainly need not tire you with tedious reminders of our common problems. I also work the other side of the counter in our industry. Omark Industries, of which I am chairman, manufactures several product lines widely used, directly or indirectly; in construction and homebuilding. They include powder-actuated fastening tools; fasteners and loads; chain for chain saws; stud welding equipment; and Prentice cranes for unloading and placing building materials.

So, you can see, I'm on my own home grounds today.

A BALANCING OF NEEDS

I was very pleased by an advertisement for the National Association of Home Builders published last month in a leading business magazine. Its caption read: "You should see what home builders are doing to the environment. You might be surprised." The ad then pointed out that more and more builders, by employing new land use concepts, are balancing the needs of people with the needs of the land. I hope and trust that these are not just the high-sounding words of an ad man, but are the sentiments of the NAHB's more than five hundred affiliated associations.

I have been responsible for, or closely associated with, six land development projects in the state that has the toughest environmental laws of all the 50 states. Oregon has not dozens, but hundreds, of laws and administrative regulations designed to preserve the pristine beauty of the state. The last legislature alone passed some one hundred out of three hundred environmental bills introduced. Still more are planned in the legislature that is convening today in Salem.

A STATEWIDE PROBLEM

In 1969, Oregon became the first state to say, in effect, that zoning and land use is a state responsibility because it is a statewide problem. It said this by requiring all countries to draft land use plans and zoning ordinances.

The public owns and has access to every inch of Oregon seashore, and our coastal zoning law assigns to the state responsibility for preventing defacement of this scenic resource. So complete is the protection of our wilderness and park areas that in these areas no more noise than that made by a vacuum cleaner—seventy decibles at ten feet—is permitted. We have cleaned up the one major river that is wholly within Oregon. We have banned no-return beverage bottles and cans. We are opening hundreds of miles of bike trails, footpaths and bridle paths. We have a Department of Environmental Quality that doesn't hesitate to close down a polluting factory and a state Health Division that is quick to order cities and counties to stop giving subdivision or plat approvals when a potential health hazard exists.

Oregon's Open Space Taxation Law encourages, through tax policy, the preservation of farms and golf courses and other recreation land by allowing these lands to receive special tax assessments based only on a special open-space valuation.

This week our state legislature is receiving a tough new land use bill designed to enable the state and local governments to implement more effective and coordinated land use programs. Among other things, it would permit the state to sue the uncooperative developer as a public nuisance. I have no doubt that the essential features of this bill will become law.

RUNAWAY SPRAWL SLOWED

Other states also are putting the legal brakes on runaway sprawl and the misuse of land. Vermont, Colorado, New Jersey and Delaware come immediately to mind. It's a trend that can't be stopped and shouldn't be slowed.

The mood of the people suggests that, not only will there be more laws, but that existing law will be strengthened. In Oregon, for example, environmental purity continues to be not just the concern of a few noisy ecological nuts whose efforts bring little lasting benefit. Our water and air, and especially our land, enjoy the loving solicitude of a vast majority of Oregonians—from the week-end camper right up to the governor.

Now, how has this penchant for purity, backed by the toughest laws in the country, affected growth in Oregon? It certainly has not hampered expansion and I frankly believe it has been an element of healthy growth. At any rate, Oregon is growing at a rate faster than the national average.

Our population is increasing so fast that some serious men, both in and out of government, are looking for ways to discourage newcomers. For the seventies, population growth in Oregon is projected at from 15 per cent to 25 per cent—considerably above the 11 or 12 per cent expected for the nation as a whole.

SOLID GROWTH, DESPITE RESTRICTIONS

Between September 1971 and September 1972, home building permits were up 14 per cent nationally, but in Oregon, they climbed more than 25 per cent.

Unemployment in the state is almost a percentage point below the national average, and last year the growth in our civilian labor force was half a percentage point better than the nation's.

It's obvious, then, that our intense preoccupation with, as you say in your ad, balancing the needs of the people with the needs of the land has not retarded economic expansion in Oregon.

How has it affected the land developer? Of course, I can only testify to my own experience. But first, I'd like to describe briefly some of the projects of which I am either owner, majority stockholder, general partner or director.

Salishan on the Oregon coast is a lodge and resort, and it is also a six hundred-acre second home community. In the words of our architect, John Storrs, "At Salishan, nature is a builder's best friend." We have done everything possible not to disturb nature, but rather to make it a part of the whole design element. Among several restrictions aimed at preserving the original beauty of the land is one that is 12 years old which prohibits leaseholders from removing or planting a tree, shrub or other vegetation without written permission. I think we have been successful in taking advantage of the spectacular natural settings by making it appear that the structures were dropped into the woods just as though they belonged there. For these efforts, Salishan has won several awards.

Sunriver community in central Oregon is being developed on 55 hundred acres of pine forest and open meadowland along eight miles of the Deschutes River. The area is one of mountains, lakes, streams, open range and abundant wildlife. And we are bordered on three sides by a national forest.

COMMUNITY WITH AN ECOLOGIST

Just as at Salishan, the coming of man has been more of an enhancement of the land than an intrusion upon it. Sunriver is probably the only community in America with a ful-time ecologist hired, among other reasons, to be a watchdog for the environment. He is responsible for such matters as seeing that only safe pesticides and herbicides are used on the golf course and in the community. He heads up our efforts to protect wildlife habitats and he instructs others on the staff about environmental protection. We listen to him, too.

Currently under development is John's Landing in an older section of Portland along the Williamette River. When completed, this village within a city will represent an investment of over 80 million dollars. I am a general partner in this limited partnership, and

shortly I'll discuss in detail some of the concepts behind John's Landing and some of the problems we have met in this on-going project.

Mt. Hood Meadows, of which I am a principal and a director, is a ski resort on Mt. Hood. With this development, too, we have been careful to preserve the beauty of its natural setting. This was not a simple matter, as you will realize when you consider the difficulty of building a ski lift while still saving some of the trees in its path.

I have also been a principal in the planning and development of three business parks in the Portland area. Two Omark plants in the Omark Industrial Park have won awards for blending utility with beauty.

ECOLOGICAL CARE AND PROFITS

All these projects have been successful and profitable, despite the many legal constraints a land developer faces in Oregon. They have been successful, I believe, in part because the developers recognized from the beginning that regard for environmental integrity means not only greater protection of the public interest, but in the long-term, greater profit potential for the developer. As an example, although there were no laws to prevent us from doing so, we chose at Sunriver not to subdivide and sell property right on the banks of the Deschutes River. Instead, we created a permanent riverbank greenbelt. This decision greatly enhanced the value of the more numerous parcels removed from the river's edge. And the river itself is just as beautiful, just as wild as when the Indians fished it.

Now, about John's Landing. This is a private development—a self-contained urban village—in its first stage of development. The site is along almost a mile of dilapidated and untended Willamette riverfront and covers about 60 acres. One thousand living units are planned for three thousand persons. We plan for the community's population to be a cross-section of economic groups and to include students, retirees, singles, couples and families—just as in any small town.

There will be stores, restaurants, a hotel, offices, and a butcher, delicatessen, pie maker, stationer, outdoor shop, toy shop, a coffee, tea and spice shop and many other small establishments. Minimum rent for residents will be about 150 dollars a month with condominiums starting at 35 thousand dollars.

DE-EMPHASIZING THE AUTO

The entire area will be pedestrian-oriented. Shuttle buses and mass transit will help us de-emphasize automobiles by keeping autos out of the central area. Bikeways and walkways along the river, rather than roadways, will predominate.

When we have finished, I hope we have the most attractive mile of developed riverfront in America. We hope also that John's Landing will be a national example of how you can convert a deteriorating industrial area into a real asset for a city and its people. We'll be turning our faces—not our backs—to the river.

We are finding that careful planning and cooperation with all interested groups is paying off. I am sure most of you are aware of the problems faced by any developer who wants to build along the water, especially if the water is a navigable stream. Public objection, from neighbors-to-be and from ecologists, often is the first problem that must be overcome. The community must accept your plans, or you will not build.

John's Landing is being very well-received by the Portland public and officialdom. To date, the publicity we have received has all been favorable, and while there have been problems and frustrations, none of these have been caused by any public antagonism or resistance.

GETTING THE COUNCIL OF ENVIRONMENTALISTS

I think there are good reasons why we have encountered no such opposition. One of the first steps in the early planning stage was to call in the Oregon Environmental Council, a non-profit citizens group that is a militant, but not obstinate, guardian of the state's environmental integrity. We described what we wanted to do and we asked these environmentalists if they could see any objections from an ecological point of view.

As you might expect, they did have some objections. Among a few other things, they said our plans did not appear to assure sufficient protection of the riverbank. They also wanted us to leave the natural vegetation as it was.

My associates and I pondered their reservations and decided the criticisms had merit. We decided to leave the trees and other riverbank vegetation. And we went to the Army Engineers and other consultants and we asked: "How do we protect the riverbank?" They told us, and we planned accordingly.

It shouldn't surprise you when I say that John's Landing has the Oregon Environmental Council as a staunch ally.

We also turned to the residents of the neighborhood bordering our planned development. This is a stable area, bounded by high, steep hills on two sides and by the river on one side. Its residents are a mixture of not-so-recent immigrants, blue-collar workers and retirees. They are in the lower and middle income groups and their homes are modest, but neat and well-kept. It's an area where neighborhood ties are very strong. A 30-year-old grape arbor can be a source of pride to neighbors as well as to the owner.

SOLICITING THE VIEWS OF OUR NEW NEIGHBORS

The neighborhood has a community league that for several decades has been an effective spokesman for the residents. We met with the league several times to explain our plans for the area and to solicit the views of its members. We asked their help in retaining the flavor of the existing neighborhood, a matter which was of considerable concern to them.

Our group explained that, with the development of John's Landing, their properties would increase in value. With this would come the threat of increased taxes, a threat we were prepared to help them resist. You can understand that, if these people are forced out by higher taxes, the area would be opened to developers whose ideas possibly would not be consistent with the concept of John's Landing or the preservation of an old neighborhood.

We told the league that, with neighborhood help, we would make every effort to urge that the tax base of an area resident is frozen so long as he remains on the property. We will also try to arrange for the tax increment on the John's Landing property to be applied to long-promised neighborhood improvements, such as better streets and parks.

Since the meetings with the community league, some of my associates have made it a practice occasionally to stroll through the neighborhood, chatting with residents on corners and doorsteps explaining our plans in detail and answering their questions.

The result of all this has been one hundred per cent support for the development from home owners. The only opposition has come from a few of the smaller businessmen who fear—needlessly, I hope—that higher taxes will force them to relocate.

All along, there was the task of working with several layers of government, and here is where we have had, expectedly, some small and time-consuming problems. To date, there have been over 30 various government bodies contacted, with approvals and permits required from a number of them. The delays and red tape have often been frustrating, sometimes annoying. There was considerable less frustration dealing with state and local bodies than with federal departments. Uncle Sam's inflexible bureaucrats tend to interpret policy in the strictest manner possible and only very rarely do they consider regional differences and local needs and desires.

PUBLIC SUPPORT IS VITAL

Despite these irritating problems, we are still just about on schedule. However, I doubt that we would be had our policies not won the support of the general public and groups that can be concerned by projects such as this one.

So far today, I have tried to show you why I am unalterably convinced that, for the land developer, ecological consideration is another way of spelling expanded opportunity; that the more intelligent the land use, the more the profit potential.

At this point, I would like to discuss what I regard as some new directions that must be taken and some changes in attitude that must be made if we are to find an acceptable answer to the problem of housing the 60 million more Americans will have 25 years from now. That 60 million is more than the present population of the British Isles.

I think first that land owners, land developers and governments should try to understand why new concepts of land use are developing throughout the nation.

To begin with, new land use practices are absolutely mandatory. Some population projections between now and the year 2000 indicate that land needed for urban and related purposes will double the total present urban area. This means, simply, that unless some changes are made, there just won't be enough room. Current statistics on population density can be misleading when you consider that the federal government owns one-third of all the land in the United States.

LAND IS A RESOURCE—NOT A COMMODITY

Until very recently, land was considered a commodity, to be bought and sold and used in almost any manner the owner desired. However, many of us are now recognizing that land is more than a commodity, that it is a limited resource which must be conserved and used carefully. Out of necessity, this new concept must be accepted by land owner and developer alike. Those who refuse to accept it will be legislated out of business. The heyday of the migratory developer has passed.

How do these concepts square with our traditional beliefs about the sanctity of property rights? Our Constitution guarantees that we will not be deprived of our property without due process of law. Courts have held that, if regulation of property is so severe that the use of it is greatly limited, the due process clause may offer relief. On the other hand, the same Constitution was ordained and established, according to its preamble, to "promote the general welfare."

The resolution of this issue lies somewhere between the guarantee of due process and promotion of the general welfare. I am not a lawyer, but I cannot believe that there is no answer to be found in the most sophisticated system of law devised by man.

The development of new attitudes and the adoption of new concepts about land use requires some adjustments in the roles that federal, state and local governments play in the matter.

THE ROLE OF UNCLE SAM

The federal role should be limited to assuring that the individual states act in accordance with individual state needs, which vary greatly. The National Land Use Policy Act, which died in the last Congress and which is being re-introduced in the Ninety-third Congress, would accomplish this. It would require states to establish authority in a state agency for implementing land use programs by any one of the following methods:

(1) Direct state land use planning; or

(2) State administrative review of local land use plans and their implementation; or

(3) State establishment of criteria coupled with review and enforcement.

Passage of this federal legislation would be a great stride forward in the move toward wise land use planning throughout the nation.

But as important as federal legislation and policy is, the heaviest responsibility lies with the states. They will be approving and administering policy and practice at the local level. It is at the state level that your affiliated NAHB associations can be of great help. Your counsel will be needed in your state capitals to prevent the whole scheme of things from going awry.

I hope you will urge your states to approach land use policy with flexibility, avoiding the bureaucratic fallacy that regulation for the sake of regulation is good. And the states should be encouraged to cut red tape where possible so that time, which involves one of the largest expenses in development, can be conserved.

THE SMALL DEVELOPER HAS SPECIAL NEEDS

State regulatory bodies must also recognize the differing problems and needs between the large developer and the small developer, or the latter will be out of business. Where this happens, sprawl will be encouraged to the detriment of both the land and the people.

Regulations must also be kept uncomplicated and flexible, so that innovation will be encouraged. If they are not, our landscape in the future is likely to be an endless repetition of dittos.

If state plans are to be workable, it is tremendously important that states concentrate only on major—and I emphasize the word "major"—land use needs. Otherwise, state agencies will be reduced to becoming over-burdened zoning commissions.

It is also most vital that the states require participation by local governments and local citizens. Without this commitment, any program will be from the beginning doomed to failure.

When it's necessary, local government—the cities, the towns and the counties—must demand of their states the right of participation. And this participation must be by local agencies that are representative of all interests: land owners, developers, environmentalists, farmers, industry, business, labor and banking.

Much unnecessary red tape can be cut if these local authorities will make a real effort to avoid duplicating the administrative processes of other government levels. Where this is done there will be a saving of time and money for just about everyone concerned.

VISUAL POLLUTION NO ANSWER

If the machinery is to work at all, local governments must constantly remind themselves that not every new source of tax revenue is a blessing. Clutter, sprawl and visual pollution is no answer to increasing pressures for property tax relief.

Finally, there is a need for some adjustment in the policies of lending institutions. Lenders should be made more aware of the peculiar needs of the small scale developer whose capital is limited. The needs of the bulk of our population will not be met if the small developer cannot find financial backing.

You hold in your hands a large responsibility for assuring that this land remains America, the beautiful, that it does not become America, the blemished, for you are, more than most, a steward of our environment. That stewardship does not require of you the sacrifice of solvency; it does ask that when you build upon the land you add more than catchpenny shelter.

If you attend your stewardship well, your care will be shown in the color of ink on your balance sheet, as well as in the color and the shape of the land around us.

PARTICIPATORY DEMOCRACY

Mr. HUMPHREY. Mr. President, Senators have recently introduced legislation that takes a giant step toward the universal registering of Americans to vote. I strongly support that legislation which provides for a simple post card procedure. However, let us not blame citizen apathy and alienation entirely on inadequate registration procedures.

We, as the branch of Government nearest the people will be sadly misled if we look no further than the board of elections. There is growing evidence that Americans do not care about their Government and do not think they can change anything if they try. Despite the quick answers that ballots are longer, young people alienated, and campaigns dull; there is growing evidence of a deeper malaise.

Many people are tempted to attribute this lack of voter participation and enthusiasm to current administration policies. The President's "benign neglect" of minorities has led to minorities neglecting the ballot box. The President has reorganized the Cabinet in the name of efficiency. But efficiency toward what end? There are no national goals, no ends. Efficiency is not an end in itself. Changing the names of programs and departments is not the answer. Shuffling people and positions provides no solutions.

Most Americans do not find the issues that concern them on the ballot. The public often feels it has been misled. On some issues there is as often as not a cloak of secrecy. Other vital issues often become involved in a tangled web of agency guidelines and court decisions.

Instead of being angered into action, the electorate has withdrawn. Conventional political theories have failed to explain this phenomena. The last decade saw an unparalleled growth in individual earning power and educational levels. Yet that same period witnessed an overall decline in electoral activity.

Surely the answer is not that we have solved all of our Nation's problems. The average American is not satisfied with the quality of life. America is not No. 1 in health care. America does not have the lowest rate of crime in the world. America is not at the top of the list in quality education. And finally, America is not the No. 1 participatory democracy in the world.

What has happened to the American spirit? Where is the drive to be the best? I submit that this lack of citizen involvement threatens our national existence far more than any external threat.

Mr. President, I ask unanimous consent that two very fine articles by William Chapman on this dilemma be printed in the RECORD.

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

[From the Washington Post, Jan. 28, 1973]

THE VANISHING VOTER

(By William Chapman)

In the early 1960s, John F. Kennedy looked back on the election that had made him President and was surprised to discover how few Americans had voted. Actually, the turnout had been proportionately the highest in modern times, but to Kennedy it seemed terribly low. He appointed a commission to find out why more people don't vote and the executive order creating it began, "Whereas less than 65 per cent of the United States population of voting age cast ballots for presidential electors in 1960 . . ."

If he was surprised then at the turnout in American elections, Kennedy would be astonished today. The rate of voting has dropped sharply since he was elected. About 64 per cent of the voting age population cast ballots in 1960. Last fall, only 55 per cent went to the polls.

That means America is witnessing the deepest and most persistent decline in national voting since the early days of this century. Nothing like it has happened since the proportion of voting Americans dropped sharply between 1900 and the 1920s. In round numbers, 62 million people who might have voted in 1972 did not. That is 15 million more than the number who voted to reelect Richard M. Nixon. Fewer than half vote in congressional elections.

HOW BASIC A CHANGE?

Most peculiarly, the era of the vanishing voter has occurred when, by all the rules of conventional wisdom, voting should be on the increase. The country is richer, better educated, and better informed about elections than ever before. Moreover, this supposedly is the age of "participatory democracy" when we are given to understand that John Q. Public at last has found his voice.

What accounts for the downward spiral? One theory explains it with conventional short-term reasons: Ballots are more complex these days; new young voters, as expected, didn't match their elders at the polls; registration is still difficult; campaigns have been dull and voters momentarily apathetic. In this view, nothing serious has happened; there has been no fundamental shift in political behavior.

This is the opinion of Richard M. Scammon, a prominent elections expert, who says: "I disagree with those on the left who say that everyone is fed up with the system and so they don't vote, and I also disagree with those on the right who say that everyone is happy and satisfied and so they don't need to vote.

"There is the complexity of voting—it's getting worse. I've seen voting forms that are very complex—it's like filling out your income tax," says Scammon. "You had the 18-to-20-year-olds voting this time. Anytime you move a newly enfranchised group into the electorate you get a lower turnout—it happened when women got the suffrage. There are more states now that don't elect a governor in a presidential election year, so that cuts down turnout, too."

Add these together, throw in the comparative dullness of last year's campaign, Scammon believes, and the 1960–72 drop-off is explained.

BEYOND THE VOTER'S REACH

There are others, however, who see it in a different perspective. They believe that a major shift in attitudes is taking place and that, for reasons not fully understood, more and more Americans are *intentionally* disregarding elections which seem less and less important. These people are, in one sense of a much overused word, "alienated" from the election system because it offers many frustrations and no rewards.

One of Scammon's academic friends, Walter Dean Burnham of the Massachusetts Institute of Technology, believes that voting is increasingly irrelevant to a larger and larger number of Americans. It is part of the "decay" of the entire electoral system. Political parties which once anchored millions to the election system are "decomposing."

People, particularly at the bottom of the

economic heap, find voting irrelevant to their daily lives. "Look at the people in the South Bronx," says Burnham. "What does voting for President do to help these people out? Or voting for Congress?"

More than simply the poor in America are neglecting the franchise. After all, only about one-eighth of the population is classified as officially poor; yet 45 percent did not vote in a presidential election and a clear majority persistently avoid congressional elections. Obviously, some Americans higher up the economic scale are dropping out.

An American University authority on election procedures, Richard Smolka, believes it is because even important middle-class issues do not get solved by attention to the ballot box. The most vexing problems are perceived as somehow beyond the reach of the voter.

Smolka recently talked about the problem with election officials across the country and came away with their pessimistic conclusions: "They say that people just feel less and less that it's worth their time voting. The issues that most concern them don't get solved by voting. The people are told, for example, that busing is a matter for the courts—so that very pressing issue is beyond their reach. If you think that no matter who you elect, taxes are going to go up, and that it's just sort of in the nature of things, and if you know that busing is a matter for the courts, then voting gets to be less important."

Nationally, the turnout rate has fallen about 9 percentage points since 1960, but the decline in most of the large Northern states is more startling. It was off 14 points in Massachusetts, 13 points in Michigan, 14 points in Illinois.

In Connecticut, always a high-voting state, nearly 77 per cent of the eligible citizens turned out in the presidential election of 1960. Last fall, only 65.7 per cent did so.

TOPPLING TEXTBOOK TRUISMS

Experts may disagree on what causes voting to decline. What is clear is the failure of the traditional textbook truisms to explain it. For a half century, it has been assumed that voting would increase if people rose economically, became more educated, were stimulated by more information, and could register more easily. All of these happened in the 1960s; yet the percentage voting for President fell steadily.

Those lowest on the economic scale always have voted least frequently. In 1968, the Census Bureau found a difference of 15 percentage points between the national voting rate and that of the poorest Americans. As incomes rise, history shows, the likelihood of one's voting also increases.

But family incomes increased dramatically during the 1960s while the turnout rate declined. The median income of all American families rose nearly 70 per cent between 1960 and 1970; the proportion of those voting fell about 9 percentage points between 1960 and 1972.

A University of Michigan study shows more clearly that the habit of non-voting is spreading to the middle-income. It discovered through surveys that last fall 44 per cent of those with family incomes between $8,000 and $15,000 did not vote. A similar survey conducted in 1960 found that only 26 per cent in that income class had not voted. The proportion of the poorest who did not vote was approximately the same in both elections.

There is some evidence, moreover, that the current decline in voting is more prevalent in the middle classes than in the poorest. The percentage of those earning $3,000 or less who voted was about the same in 1968 as it had been in 1964. But there was a 5-percentage-point decline in voting among those earning $7,500 to $10,000, according to Census figures, and a 7-point drop for those earning $5,000 to $7,500. The decline in voting seems more pronounced among the middle and lower middle classes than among the poorest in our society.

EDUCATION AND REGISTRATION

Another truism toppled in the '60's was the assumption that political participation rises with the level of education. In the whole field of political behavior, there is no closer correlation than the one between years of schooling and voting for President.

That relationship seems to have been fractured. Between 1959 and 1972, the proportion of the people over 25 who had completed high school increased by 15 percentage points, according to the Census Bureau. It was accompanied by the 9-point decline in presidential voting.

Perhaps nothing suffered more than the conventional assumption that people don't vote because of technical impediments, chiefly those involved in registration.

It is true that registration is more difficult in the United States than in almost any other Western democracy. In most European countries, the government assumes the obligation of registering citizens; here, it is the citizen's duty and he does encounter obstacles. Voting turnouts in Great Britain usually exceed 80 per cent, and the recent German elections drew more than 90 per cent.

In this country, registration obstacles presumably caused part of the drastic decline in voting that occurred between 1900 and 1920. Eighty per cent turnouts were common in the 1870s and 1880s. Stringent registration laws and other techniques that disparaged voting were adopted around the turn of the century—in the North by "good-government" advocates who deplored election fraud and in the South by whites who deplored black participation.

But the experience of the 1960s indicates that merely making it easier to vote does not increase the national turnout. In fact, the decade was one in which technical barriers fell one after the other. The poll tax was outlawed. Literacy tests were abandoned. State residency requirements were relaxed. In states such as Texas and Virginia the long period between closing of registration books and election day had restricted voting; that was abandoned. Election officials today make more serious efforts to register prospective voters. Precinct registration has become more common.

So the average American voter last year had an easier time becoming eligible than at anytime in the last half century. Still, the percentage of people voting declined.

THE CASE OF CALIFORNIA

The Gallup Organization discovered last fall in a post-election poll that technical obstacles played only a minor role in discouraging voters. Its survey asked non-voters to designate reasons why they did not participate. About a third cited a lack of interest in politics and an additional 10 per cent felt they did not have a good choice of candidates.

George Gallup concluded that ". . . only a small proportion of non-voters appears to have a reasonably legitimate excuse for not voting. According to their own testimony, the large majority of non-voters could have voted if they had made an extra effort to register and vote."

A 1970 questionnaire by the Census Bureau turned up evidence that only about one-third of the unregistered remained so because of legal impediments or technical difficulties.

Perhaps the small state of North Dakota offers the most vivid proof that easy registration does not assure a large turnout. North Dakota has no registration requirements whatsoever. Yet between 1960 and 1972 the proportion of eligible North Dakotans voting in presidential elections declined by 9 percentage points.

Nothing better illustrates the failure of old assumptions to explain the turnout decline than the case of California. The income of its residents rose dramatically in the 1960s. So did the level of education. California is the cradle of participatory democracy, the state where parties are rather healthy and where citizen politics flourishes. Media coverage is extravagant. Registration is simple. Door-to-door canvassing and expensive, computerized registration campaigns are common. In 1972 alone, an estimated 2 million voters were added to the rolls. But between the presidential elections of 1962 and 1970, the proportion of Californians who actually voted fell off by 7 percentage points.

"WHAT'S-THE-USE" VIEW

If the conventional explanations don't suffice, what does cause the long-term decline in American voting? Many political scientists and practitioners of survey research believe that only a fundamental shift in political attitudes can account for it. They believe that elections mean less and less to more and more people, that a condition of general estrangement from politics is becoming pervasive. And from the grass roots in Florida comes some convincing evidence to support them.

For many years, like other one-party states in the South, Florida held general elections to which few people paid attention. The state always went Democratic in November, so not many bothered with the ballot. Even a presidential election which attracted more than a third of the eligible voters was a showcase of democracy. Then, gradually, with the coming of two-party competition, Florida voters began taking interest and the turnout increased.

But last year, the tide changed abruptly and the turnout of voting-aged persons was about 5 percentage points lower than in the presidential election of 1968. Only half the eligible people voted. The number participating in Florida's highly publicized first presidential primary was also surprisingly low.

Among the state officials who were puzzled was Secretary of State Richard Stone. To find out what happened, Stone mailed questionnaires to some 15,000 Florida election poll-workers, asking their opinion of why the turnout had been so low. The replies came back with varied reasons: There were too many candidates, the ballot was cluttered with amendments, the news media had not explained the issues adequately.

But heading the list was what Stone, in a report to the governor, called the "what's-the-use" attitude. The leading cause of low voter turnout, Stone concluded, was that people simply didn't think elections mattered very much.

Stone wrote: "The letters (from poll-workers) tell us that citizens feel candidates make promises they do not keep and feel that no matter whom they vote for it makes no difference—nothing changes, and so, as they put it, what's the use voting? This lack of confidence in candidates and officials is strong and must be heeded by all of us. The what's-the-use attitude apparently kept a sizable number of citizens away from the polls in 1972." It was "painful" news for elected officials, Stone acknowledged, but that was nevertheless the verdict of his poll-workers.

By all the sophisticated measurements of modern social research, they were dead right.

BLACK CYNICISM

The research on last year's presidential election also describes who is becoming alienated and therefore most likely to forget about voting. Blacks, for example, were until recently among the least cynical in their attitude toward the federal government; now they are the most. People who voted for George C. Wallace four years earlier felt distrustful, unable to make their views heard, and unlikely to vote. Young people now are as cynical about government as are the middle-aged.

"Alienation" is commonly associated with a condition of anger, and to many it is

symbolized by violent student protests, urban riots, antiwar marches, and civil rights demonstrations. But it also embraces a passive withdrawal from politics, an indifference and sense of estrangement.

At election time, the alienated may in fact use the ballot to strike out at officials they dislike. Some studies have shown a high degree of alienation among those who voted against public fluoridation of water; the referendums gave the angry a chance to show their displeasure with local officeholders. Other studies have shown the same pattern in defeated school bond referendums.

But more than likely, particularly in national politics, the alienated voter goes fishing. He doesn't bother unless the election offers a vehicle for expressing his anger at the way things are. For example, nearly a fourth of the people who voted for Gov. Wallace in 1968 stayed home in 1972; the turnout in 1972 of those who had voted for the major party candidates in 1968 was higher.

Research results in the past half dozen years have astonished even the surveyors, who have noted an unprecedented increase in alienation and sharp changes within specific population groups. To them, alienation is no longer a rhetorical term of the New Left but a measurable condition affecting the entire political system.

GROWING MISTRUST

The evidence comes from the biennial surveys conducted by the Institute of Social Research at the University of Michigan. The most important are two scales, each based on a set of several questions. One scale measures citizen mistrust of the government. The other measures how strongly the citizen feels he can influence government actions.

On the first scale, there has been a sharp increase in mistrust of government. One question asks, "Does the government waste much money?" In 1964, not quite half believed "a lot" of money was wasted; last fall, 2 out of 3 gave that pessimistic answer.

Another question: Is the government run for the benefit of all the people or for the benefit of a few big interests? Eight years ago, about 1 out of every 4 Americans believed government was run for the benefit of "big interests." Now, 2 out of 4 say they believe that.

The most basic question is, "How often do you think you can trust the government?" In 1964, 22 percent said they trusted the government "only some of the time." Now, 45 percent feel that way.

After reviewing such findings, Arthur H. Miller of Ohio State University wrote: "A situation of widespread, basic discontent and political alienation is the existing condition in the United States today."

Miller arranged the responses on a composite "cynicism" scale and separated them by race. He found a startling increase in cynicism among blacks in a period of only four years (1966–70). Blacks, it seems, had been more trusting of government than whites before the mid-1960s. Curiously, the sharp decline set in just after a historic two years of civil rights legislation. In 1964, only 15 percent of blacks gave the most cynical responses to the questions on trust in government. In 1970, 56 percent did so. The increase in cynicism among whites was not so great, although it was still pronounced.

THE SKEPTICAL YOUNG

Another University of Michigan survey last fall found blacks also deeply discouraged about whether government responds to what they think. Only a fifth of them believed government paid "a good deal" of attention to them when deciding policies. There was also a sharp drop in the proportion who believed that having elections makes the government pay attention to what people think. In 1964, two-thirds had believed elections force government to pay attention to what people think; less than half did last fall. Again, the whites' belief in government responsiveness had declined, too, but not as much as blacks'.

On the surface, it seems surprising that black cynicism should increase so drastically after a period of civil rights legislation and economic advances.

"It's the old theory of 'relative deprivation,'" asserts Joel Aberback, a University of Michigan political scientist who is an authority on race and alienation. "It's not what you achieve but how much you think you were entitled to achieve. Blacks have made advances, but not as much as they thought they would."

In the preliminary results of the 1972 election study, Miller also uncovered another sharp change: Young people had become much more cynical. Contrary to much popular writing about alienated youth in the 1960s, the Michigan surveys had found, rather consistently, that the young were more inclined to trust the government than were their elders. But by last fall, they had become just as cynical as their parents' generation. About 45 percent of them believed they could trust the government "only some of the time."

Miller believes the depth of cynicism is directly related to the decline in voter turnout of the past few years. Those distrustful of government are not motivated to vote, and as the level of distrust rises the level of voting goes down. Of those who indicated they would vote last fall, 42 per cent gave cynical responses in the Michigan survey. But 57 per cent of the probable non-voters were pronounced cynics.

A SENSE OF RESIGNATION

The other important test of political alienation, measuring how much the citizen feels he can influence government, is known as "efficacy." It is closely related to voter turnout, past surveys have shown; the person who feels he can affect the course of politics is likely to vote.

During the late 1960s, the citizens' sense of their own political power declined. They were more apt to agree with such statements as: "People like me don't have any say about what the government does." Or, in 1960, for example, 24 per cent of the people believed that public officials didn't care what they thought; in 1970, about 47 per cent believed that. By last fall, moreover, nearly three-quarters of those surveyed felt that politics and government are sometimes too complicated for them to understand.

Those responses depict a public increasingly dubious about the value of voting and increasingly distrustful of the people it elects. The reasons vary. For some it may be Vietnam, for others civil rights. For some it is disenchantment with what the government does. For others it is what government promises but does not do.

It seems to be not so much a condition of anger as of resigned acceptance. American University's Smolka says, "The basic problem is that there's a lack of any concrete expectations of what's going to happen if we vote in a certain way. We just don't know what our vote is going to mean."

Ohio State's Miller adds: "If this were something that could be changed by 'throwing the rascals out,' we wouldn't be seeing this. If people felt they could vote in a new administration that changes things people would feel efficacious and trustful. But they think that you vote in a new administration and nothing changes. People don't like what government is doing and they don't see an alternative choice, so they stay at home."

[From the Washington Post, Jan. 30, 1973]

LOW VOTER TURNOUT: A FEELING OF POLITICAL WEAKNESS

(By William Chapman)

There are only three certainties in an American election. There will be a winner. There will be a loser. And there will be a barrage of editorials deploring the fact that so many people neglected to vote. Grim declamations about low voter turnout are only slightly less common than editorials praising local football teams and denouncing the decline in general civility.

The non-voter is accused of ignoring his heritage. Brave men die on battlefields to protect his suffrage and then he spurns it, we are told. A few spread the blame around to embrace recalcitrant poll officials and complicated registration laws, but usually the non-voter has to bear the calumny alone.

Now that only 55 per cent of us are voting in presidential elections, and less than that in congressional elections the line is getting harder to sell. Could 62 million non-voters have been wrong last November? Maybe so, but that's a lot of people and certainly some of them are trying to tell us something.

They are telling us, according to assorted political scientists and public opinion surveys, that they don't think elections really matter so much any more. So why bother? The issues closest to their hearts and pocketbooks aren't presented in any sensible form during the campaign. As Richard Smolka of American University said recently, the voter can't have any "concrete expectations" that his vote will change the direction of government.

During his first term, President Nixon visited Russia and China to symbolize the burial of the Cold War. He scaled down the war in Vietnam but didn't end it and momentarily he invaded Cambodia. He introduced and supported a radical change in welfare policy. He instituted wage and price controls.

Those decisions have one thing in common: None could have been known to the voter who participated in the 1968 election. So the most important events of Mr. Nixon's first administration were those which no one could rationally have anticipated on election day that year.

Perhaps more significantly the experts and the surveys tell us that people feel the important decisions are beyond the reach of whichever politicians they elect. The lever in the voting booth is not the lever of power. The important decisions are made by the courts or the bureaucracy.

Our longest war, just ended, was never declared by our congressmen and senators. The price of bread and milk on our tables will be determined by administrative fiat. Since 1966, virtually all of the decisions affecting civil rights have been made by courts and administrative enforcement agencies.

Richard Scammon, a leading authority on election behavior, recently glanced over the low-turnout returns for 1972 and expressed surprise. "You would think," Scammon said, "that if people are really unhappy about things they would turn out like crazy. I can guarantee you that if there were an election on busing in Prince George's County today there would be one hell of a turnout." But that is just the point—there isn't any Prince George's referendum on the most pressing issue in the country and it wouldn't make much difference whether a politician was pro- or anti-busing. The courts make the decisions.

No one voted last year to raise the price supports on milk, something that could affect virtually every family budget. No congressman they voted for had a chance to support or oppose the increase. That was determined by an administrative order—and only after a bundle of cash went from milk producers to Mr. Nixon's reelection committee.

The point isn't that these decisions were good or bad, fair or arbitrary. The point is that busing and milk prices and wars are the things people worry about but can't seem to influence. An accumulation of these experiences, over a period of time, produces a widespread feeling of political inefficacy. In

1970 according to the Institute for Social Research at the University of Michigan, about three fourths of all Americans believed that government is so complicated that they sometimes couldn't understand what was happening. That was about 20 per cent more than the number who felt that way 10 years earlier.

The familiar rebuttal, of course, is that in a complex industrial society bureaucracies must grow and courts inevitably expand their power and the executive will assume more authority. So people invariably will find the levers of power growing more remote. But so, it seems, will they also stop reaching for the levers in their voting booths.

FINANCIAL STATEMENT BY SENATOR AND MRS. STEVENSON

Mr. STEVENSON. Mr. President, as an officer of my State, and now the Federal Government, I have always made it a practice to publicly disclose all my economic interests. Since entering the Senate I have in January of each year entered a financial statement in the RECORD and updated it quarterly with statements available to the public in my Senate offices. I will continue that practice. I ask unanimous consent that a consolidated statement of the financial condition for my wife and myself be printed in the RECORD.

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

Consolidated financial statement of Senator and Mrs. Adlai E. Stevenson III, January 15, 1973

REAL ESTATE

Home, Chicago, Ill	$90,000
Home, Washington, D.C. (cost)	125,000
One-third interest, residence, Beverly, Mass	30,000
Interest in farm, JoDaviess County, Ill	67,500
Fractional interest, Fisk Building, Amarillo, Tex	3,200
Fractional interest, 1776 Pennsylvania Avenue, Washington, D.C	20,000
Fractional interest, 633 Folsom Street, San Francisco	12,000
Real Estate, St. Maarten Island	8,000

STOCKS AND BONDS

12,640 shares, Evergreen Communications, Inc. (publishes Bloomington, Ill., Daily Pantagraph, operates WROK, Rockford, Ill., and WJBC, Bloomington, Ill., owns 10 percent of Bloomington, Ill., CATV)	160,000
3 shares, Bloomington Broadcasting Corp., class B, nonvoting	1,500
533 shares, KBA Townbuilders Group Ltd., Tel Aviv	550
10,000 bonds, Baltimore, Md. 6.25 percent, Oct. 15, 1984 (market value as of Dec. 31, 1972)	11,275
International Harvester Commercial paper (market value as of Dec. 31, 1972)	22,000
98 shares, International Business Machines (market value as of Dec. 31, 1972)	39,396
210 shares, Xerox (market value as of Dec. 31, 1972)	31,343
442 shares, Harris Intertype (market value as of Dec. 31, 1972)	20,056
100 shares, Spectra Physics, Inc. (market value as of Dec. 31, 192)	6,800
200 shares, General Electric (market value as of Dec. 31, 1972)	14,575
156 shares, R. R. Donnelley & Sons (market value as of Dec. 31, 1972)	3,296
300 shares, Zayre Corp. (market value as of Dec. 31, 1972)	8,100

Consolidated financial statement of Senator and Mrs. Adlai E. Stevenson III, January 15, 1973—Continued

STOCKS AND BONDS—Continued

300 shares, Rorer-Amchem, Inc. (market value as of Dec. 31, 1972)	$9,713
200 shares, Aetna Life & Casualty (market value as of Dec. 31, 1972)	14,625
450 shares, Narco Scientific Industries (market value as of Dec. 31, 1972)	12,657
400 shares, Robertshaw Controls (market value as of Dec. 31, 1972)	15,000

CASH

Less current obligations	10,000

MISCELLANEOUS

Personal property, including securities of nominal value, furniture, cars, paintings, and clothing	50,000
Total	786,586

DEBTS

Mortgage—Perpetual Building Association, Washington, D.C	77,551
Mortgage—Continental Bank, Chicago, Ill	17,683
Note payable to Charles J. and Charlotte T. Whalen	3,375
Total	98,609

LYNDON B. JOHNSON

Mr. YOUNG. Mr. President, many moving and eloquent tributes have been paid to the late President Lyndon Baines Johnson.

As an indication of the esteem in which he was held in North Dakota, I ask unanimous consent that the editorials which appeared in the Fargo Forum, published at Fargo, N. Dak., the Bismarck Tribune, published at Bismarck, N. Dak., the Minot Daily News, published at Minot, N. Dak., and Grand Forks Herald, published at Grand Forks, N. Dak., the Morning Pioneer, published at Mandan, N. Dak., and a column entitled "It Seems to Me," appearing in the Lidgerwood Monitor of January 25, be printed in the RECORD, along with an editorial appearing in the Teller, published at Milnor, N. Dak.

I also request that a resolution of condolence adopted by the Board of City Commissioners of Fargo, N. Dak., be printed in the RECORD.

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

[Editorial from the Fargo, N. Dak., Forum, Jan. 25, 1973]

LYNDON B. JOHNSON MUST BE ADMIRED FOR STRENGTH HE SHOWED AS PRESIDENT

Today, the nation is in mourning for the last of its former presidents, Lyndon B. Johnson. The man who committed over a half million American military personnel to a land, sea and air battle died less than 48 hours before his successor, Richard M. Nixon, was to proclaim to the nation that a ceasefire had finally been signed with North Vietnam. It is significant that the end of hostilities is coming pretty much on the same basis former President Johnson would have agreed to when he finally got the North Vietnamese to the negotiating table in Paris in the last year of his five and a half years as president.

Unfortunately, the leaders of his party who have expressed their sadness in his death stress only his commitment to progress in the field of civil rights and in the war on poverty. They still tend to blame him for America's involvement in the Vietnam War on the Asian continent, and cannot bring themselves to concede, even at this final moment, that if he hadn't followed the course he did from 1965 to 1968, he would have now been regarded in the same light as Neville Chamberlain of Great Britain has been regarded for failing to stand up to Adolph Hitler in the pre-World War II days in Europe. Former Prime Minister Chamberlain is now regarded as a weak leader who succumbed at the conference table, rather than insist that Germany honor its commitments.

Chamberlain's place in history is not one of honor. He is still regarded as the "appeaser." He is still accused of hastening the beginning of World War II by failing to stand firm when firmness was needed. President Johnson did not want to be regarded in the same light in American history, and he boosted this nation's military commitment to Vietnam to undreamed-of heights after winning the 1964 presidential contest against a militant Sen. Barry Goldwater of Arizona, whose campaign utterances led the voters to believe that American forces would be marching into Hanoi the day after Goldwater took office, if elected.

President Johnson campaigned against further American involvement, and won 61 per cent of the popular vote, swamping Goldwater. Still, he found it necessary to build up American military strength in Vietnam to the half million figure, and still could not bring hostilities to an end. More than anything else, his failure to win the peace in Vietnam caused him to bow out of the 1968 presidential campaign and ultimately turn the office over to Republican Nixon.

Still, President Johnson has to be admired for the strength he showed as president. He came into office on a day of turmoil, when President John F. Kennedy was assassinated in Dallas. He took the oath of office on the plane that was carrying President Kennedy's body back to Washington. He was the old politician stepping into the shoes of a younger and greatly admired president. Well, the old pro who was put on the 1960 Democratic ticket to help hold some of the southern states for candidate Kennedy came on with his own program, his own finesse at dealing with Congress. He had full support on the Vietnam adventure for the last year of the Kennedy term and the first two years of his own term, but after that things began to go downhill on the war. Too many draftees were losing their lives in the Vietnam War, and too many reserves and national guardsmen were avoiding combat assignments. Too many draft-aged young men were finding the exemptions in colleges and through early marriages.

President Johnson's admirable record on the extension of voting rights to the Negroes in the South, and his efforts to combat poverty in both the north and south, particularly in the urban centers, did win firm congressional support, but these gains could not offset the Vietnam losses. His setbacks in Vietnam still cloud the praise of his former cohorts. President Nixon has said kinder things about President Johnson than have many of those who served in Congress with him or supported his administration in the early years.

President Johnson, of course, has to be remembered in the Upper Midwest because he picked Sen. Hubert Humphrey for vice president in 1964. The great Democratic victory in that year saw the Democrats win control of the North Dakota House of Representatives for the first time and return Gov. William L. Guy to his third term in office and Democrat Sen. Quentin Burdick to the Senate.

Then in 1968 President Johnson was the man who directed that the Democrats run Vice President Humphrey for the presidency against the Republicans' one time vice president, Mr. Nixon.

The eulogies for President Johnson stress his domestic record, gloss over the Vietnam War. It will be up to the historians in some future year to determine whether President Johnson started the proper course in world affairs as well as in domestic affairs. He showed the same courage that the other former president who died less than 30 days previously, Harry S. Truman, did when he ordered American troops into the Korean War in the early 1950s. Truman has been praised and Johnson villified for following essentially the same policy. Now that a ceasefire is fast becoming a certainty, it could be that the judgment on President Johnson will take on kinder terms.

[Editorial from the Bismarck (N. Dak.) Tribune, Jan. 24, 1973]

L. B. J.: MASTER TECHNICIAN

Lyndon B. Johnson was majority leader of the United States Senate when a group of Bismarckers went to Washington to urge establishment of a major federal facility in the Bismarck area.

Among those the Bismarck group called upon, at the suggestion of North Dakota's Senator Young, was Senator Johnson.

He received his visitors with true western cordiality, listened to their story with apparent interest and asked questions which indicated a desire to be of help.

And during a good deal of the conversation he sat with his feet cocked on the top of his desk, relaxed and disarming and agreeable.

This was the sort of a man that Lyndon Johnson was: plain, earthy, easy to talk with, good listener, great visitor.

And a great technician, both as senator-majority leader and as President of the United States.

The tributes from national leaders and others, and the resumes of his public life as senator and President, have stressed what he was able to accomplish in the way of progressive domestic legislation during his time in the White House.

They have noted that greater advances were made in the area of civil rights, and principally in racial equality, during his Presidency than during any period before or since.

Yet Johnson never seemed to evoke a response in personal affection and even gratitude from those he helped and from those he led so successfully.

They admired him for his consummate ability as a legislative technician but they did not love him. The same intellectuals who had failed so miserably to accomplish their objectives in the preceding Kennedy Administration reacted to Johnson with ill-disguised contempt when he achieved what they had not achieved.

As also has been repeated many times, the Vietnam war, the frightful product of his immediate predecessor's error, so over-clotided his Administration as to virtually erase what little personal credit Johnson did receive for his domestic achievements. It was Johnson's mistake to escalate that war until more than half-a-million American troops were involved with casualties running into the tens of thousands and ensuing complications that have taken four years to untangle. A mistake, we say; but never should anyone feel that President Johnson did anything other than what he believed to be right and good for his country and the rest of the world. He did, we are sure, what he believed to be right and good, and of no man can more be asked.

[Editorial from the Minot, D. Dak., Daily News, Jan. 24, 1973]

LYNDON JOHNSON—A GREAT MAN

Unexpectedly the nation pulls itself together to lay a richly deserved wreath on the grave of Lyndon Johnson, the forceful 36th President of the United States and a man who loved the people.

Less than a month from the passing of Harry S. Truman, another man of the people, Mr. Johnson died. His death followed by a a few days the inauguration of his successor, President Nixon, for a second term.

Lyndon Johnson was the Vice President when with a firm hand he took the presidential office Nov. 22, 1963, the day that John Kennedy was assassinated.

Mr. Johnson, using his great skill in congressional relations, pushed Mr. Kennedy's legislative program through Congress. He did it with a success that Mr. Kennedy doubtless would not have had, had he lived.

Then elected as President in 1964 by a landslide, Mr. Johnson won a firm place in history by gaining passage of strong civil rights legislation, although he was a Southerner. He went on with programs intended to improve the position of the nation's poor, its children and its aged, particularly benefitting black Americans.

Mr. Johnson's skill in managing Congress, both before he became Vice President and afterward when he was President, probably was unsurpassed in American history. His accomplishments on behalf of the minorities were a case of forcefully striking the iron while it was hot.

He was a big-hearted, loyal, impatient man. As a result of what he accomplished, the nation never again—even in periods of reaction—will drop back to the complacency which existed before, with regard to the poor and the black.

It is ironic, then, that after such a record, Mr. Johnson should have found himself in the midst of trouble. There was turmoil on the domestic front. Partly, perhaps, it stemmed from "rising expectations" of many who had never had it so good. Mainly it was a result of our involvement in a much-stepped-up war in Vietnam. He simply could not believe that our avowed goals there could not be realized, or that the nation would not stand united until those goals were accomplished.

It became a war in which the President himself as commander-in-chief, felt trapped, even as other Americans felt. There was no discernible way, it seemed, to put down the Viet Cong and the North Vietnamese; no way to extricate or terminate. President Johnson to a large degree was left to prosecute the war and make it his day-and-night worry, while many others in public places carped and criticised and condemned. While the war wore on, shocking expressions of alienation, protest and lawlessness in cities and on college campuses left the country confused.

The President, though sometimes tempestuous personally, was too much of a Populist to feel good about his duties as commander in chief. He was out of his element in military and foreign affairs. Some of the advice he got was poor. Meanwhile this most unhappy warrior suffered the calumny of being portrayed as a war monger.

Mr. Johnson inevitably must bear some responsibility for military decisions that escalated the war in hope of bringing it to an end. Some supposedly wise advisers in government could not show him a way to deal effectively, all at once, with national commitments abroad, with enemies in the field, and with the host of armchair quarterbacks at home and in the Congress and on the campuses. It was President Johnson, however, who initiated negotiations for a settlement.

Now as Lyndon Johnson is carried to his grave, the negotiations that were continued and expanded by President Nixon have borne fruit. Now we all know how frustrating, how difficult it has been to bring North Vietnam to realistic negotiations. It has come about only after further escalations of the fighting during a period when the great body of our land troops were being withdrawn.

Whoever is blamed for what, we now see this tireless man, who did not spare himself, taking his rather large place in the succession of our Presidents. He was a man of devotion to our country, and one whose dedication to equal opportunity for everybody was as great as any. In his and our most trying months and years he had our sympathy, and now he has our appreciation.

[From the Grand Forks (N. Dak.) Herald, Jan. 23, 1973]

REQUIEM FOR L. B. J.

History will probably be kinder to Lyndon Baines Johnson than have his contemporaries.

Seldom has a President been so rejected and shunned as much as Mr. Johnson in the years after his presidency. One must go back to Herbert Hoover, also a victim of policies which had their beginning before he took office, to remember a President who fell into such disrepute among his own party, and Americans at large.

But with the passage of time, Lyndon Johnson will be remembered as a masterful political tactician, a man of great human concern and a person who got things done. The shadow which the Vietnam War threw over his career may be lifted more quickly than now seems possible simply by the fact that it is a war which the American people want to forget.

The parallels between Mr. Johnson and Harry Truman, who died only last Dec. 26, are striking. Both made their names in the U.S. Senate after going to Washington with only slight local reputations. Both advanced to the presidency upon the deaths of Presidents of great popular appeal and both surprised with the speed and assuredness in which they turned their administrations into their own.

Both had to undergo unusually bitter scorn, but rose above it.

Mr. Truman lived long enough after his White House years to see the workings of history begin to lift his reputation. Although Mr. Johnson did not, and in fact was ignored at the last Democratic National Convention, he, too, undoubtedly will be elevated in esteem by the passing of the years.

[Editorial from the Morning Pioneer, Mandan, N. Dak., Jan. 23, 1973]

LYNDON B. JOHNSON

He inherited the presidency suddenly on that awful afternoon, Nov. 22, 1963. It was not an auspicious beginning. As a Southerner, he had been the first choice for the presidency of only a few in 1960. As vice president, he had been kept carefully on the sidelines of the New Frontier.

America did not know what to expect from its new president.

In the ensuing weeks and months, Lyndon Baines Johnson helped restore a feeling of sanity about American public life. He soothed the nation. This was his first great accomplishment. He was a master in the art of healing hurts.

After an immense political victory in 1964, which saw a Congress elected that in large measure was willing to enact the laws he asked for, Johnson presided over an immense output of domestic legislation, much of which was useful.

His second great accomplishment was the commitment of the federal government to racial justice. Johnson understood the dilemma of the black man in America better than any president, past or present. He gave leadership when it was needed to prod the nation into making good its promise of equal opportunities for all.

Finally, LBJ humanized the presidency. A third accomplishment which didn't seem so much a virtue during the Johnson years as it has become in retrospect.

LBJ, like his great political mentors, Sam Rayburn of Texas and Franklin D. Roosevelt of New York, was real. He liked to tell

earthy jokes, he shared his joys and sorrows with the nation via television, he liked to drink whisky and Squirt by the pool at his Texas ranch.

His was a far different—and in many ways more appealing—way to conduct the presidency than the aloofness of Eisenhower, the fairyland glamour of Kennedy or the remote invisibility of Nixon.

Johnson's presidency foundered on the war in Southeast Asia, a conflict already underway when he took office. He continued a direction already pointed out by his predecessors. The wrong direction.

But passions about this war will cool in time, as do all political passions. And with the cooling will come some softening in the judgment of Johnson's war policies. In any event, his accomplishments remain.

[From the Lidgerwood (N. Dak.) Monitor, Jan. 25, 1973]

IT SEEMS TO ME

(By C. W. Frost)

This is a week to remember! Nixon's inauguration can be the clue to help you remember—January 20, 1973, was Saturday; Monday was President Johnson's death, the last living past president gone, three of them during Nixon's term in office; then the announcement of the end of the country's longest war on Wednesday. You won't find another week like that in a hurry. The résumés of Johnson's five years in office were a good review of the Vietnam war, too, though it began as far back as when President Eisenhower still lived in the White House. If he had taken a different attitude, the whole story might have been different, since everyone felt he knew best on anything connected with war.

But then we easily forget the climate of the times then. I certainly cannot blame Johnson for sending half a million of our boys to Vietnam. Along with almost everyone else I took it for granted those little brown people would slink away home after one glance at our Lil Abner types.

[From the Milnor (N. Dak) Teller, Jan. 24, 1973]

EDITORIALLY SPEAKING

The nation mourns once more with the passing of another great leader of our time, Lyndon B. Johnson, 36th President of the United States.

Fate seemed to work against this great leader whose political career was marred by an inherited conflict which now seems only hours away from being settled, yet not soon enough for him to have the pleasure of knowing.

Lyndon B. Johnson has been acclaimed by political leaders throughout the United States as one of the most powerful men in Congress while serving as a senator and he will go down in the annals of history as a president who managed to put more social legislation through a reluctant Congress than any other president since Franklin D. Roosevelt.

The nation's flags have again been ordered flown at half mast by President Nixon while the order for flying them at half mast for former President Truman was still in effect.

Republicans and Democrats alike join in the eulogies expressed for this great leader and join in their expression of sympathy to the bereaved.

[City of Fargo (N. Dak.), Jan. 23, 1973]

RESOLUTION OF CONDOLENCES ADOPTED—FAMILY OF THE LATE LYNDON BAINES JOHNSON

President Lashkowitz relinquished the Chair to offer the following Resolution and move its adoption. (Vice President Markey presiding.)

Whereas, it was with profound sorrow that the Board of City Commissioners of the City of Fargo learned of the untimely passing on of the late, beloved, Honorable Lyndon Baines Johnson, who served his Country as Vice President for over three years and as President of the United States for five productive years; and

Whereas, the Honorable Lyndon Baines Johnson compiled an outstanding and distinguished record of service to the people of the United States by taking bold, strong and aggressive leadership roles in proposing and the enactment of vital legislation to help the disadvantaged in our society and to make the American dream more of a reality; and

Whereas, the Honorable Lyndon Baines Johnson's efforts in behalf of civil rights culminated in the enactment into law of the famous civil rights law of 1964 which will always be identified as a hallmark in the career of American Presidents; and

Whereas, the record of achievements of The Honorable Lyndon Baines Johnson covered many years in service as a distinguished Member of the House of Representatives and thereafter as a Member of the United States Senate where he was the Majority Leader and cooperated in a bi-partisan manner with the late President Dwight Eisenhower, thereby clearly placing the needs of his Country and its people above the narrow confines of partisanship and yet retaining devoted loyalty to the party which he served so vigorously throughout the years; and

Whereas, the Honorable Lyndon Baines Johnson has compiled a record which time and history will, we feel, judge him kindly and gratefully.

Now, therefore, be it resolved, that the Board of City Commissioners of the City of Fargo, on behalf of the people of Fargo, does hereby express its profound sorrow at the untimely passing on of The Honorable Lyndon Baines Johnson and does hereby express its gratitude to President Johnson for his distinguished service to our Nation and its people and does hereby express its gratitude for the great service that President Johnson rendered the American people.

Be it further resolved, that this Resolution be inscribed upon the permanent records of the proceedings of the Board and certified copies furnished to the family of the late, beloved Lyndon Baines Johnson and that copies be furnished our Congressional Delegation with the request that it be entered upon the Congressional Record and placed on file at either The Johnson Library in Austin, Texas or the Archives of the United States of America, whichever the Johnson family prefers.

Be it further resolved, that the Offices of the Fargo City Hall be closed during the memorial service to be conducted honoring the memory of the late, beloved Lyndon Baines Johnson.

Second by Stockman. On the vote being taken on the question of the adoption of the Resolution Commissioners Stockman, Lashkowitz and Markey voted aye.

Commissioner Bromenschenkel passed his vote, stating that he is in complete agreement with the Resolution, but does not feel that City Hall should be closed.

Absent and not voting: Commissioner Schuster.

The Vice President declared the Resolution to have been duly passed and adopted and returned the Chair. (President Lashkowitz presiding.)

HERSCHEL LASHKOWITZ,
Mayor and President, Board of City Commissioners, City of Fargo, North Dakota.

COMMENTARY BY ELIZABETH DREW

Mr. NELSON. Mr. President, the February issue of the Atlantic Monthly contains another of the perceptive and thoughtful commentaries by Elizabeth Drew, a Washington reporter, for the Atlantic.

Elizabeth Drew's article ought to receive wide and thoughtful attention. I ask unanimous consent that the text of her article in the February 1973, Atlantic Monthly be printed in the RECORD.

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

REPORTS AND COMMENTS

WASHINGTON.—Last summer, during the Republican convention in Miami, a brief item appeared in the *Wall Street Journal's* "Washington Wire" column headed "Who's Up?" which said a lot about both the Nixon Administration and how the press reports on it. "The White House staff is up," the item revealed. The evidence: "Members attending the Republican convention ate in the Doral Hotel's elegant main dining room, at party expense. Cabinet officers were relegated to the downstairs coffee shop, had to pay their own bills." What are commonly referred to as "Washington observers"—those sifters of tea leaves and traders in gossip who interpret the government to each other and to a presumably breathless public—know their signals and symbols. The *Wall Street Journal* item signified how it was within the Nixon Administration, and furthermore how it would be, and how, in fact, it would have been no matter who had been in power.

The President's recent "reorganization" of the government continued a trend toward gathering power within the White House that has accompanied the growth of government itself. When the President announced from Camp David, his Maryland retreat, in November that "we are going to put greater responsibility on individual Cabinet members for various functions that previously had been that of the White House staff," experienced and skeptical (which may be a redundancy) reporters were presented with a difficult dilemma. It is one which confronts them frequently when an official announces something which they believe in their bones to be untrue. If a President announces that the world is flat, it is their job to report that "the President announced today that the world is flat," and not, in print, to call him a liar. It is even indelicate to suggest, in the course of their stories, that there is another view of the matter. This is left largely to the columnists and to the "analysis" stories, which may or may not catch up with the official announcement, and may or may not be believed. Many Washington journalists have come to understand that their word is not held to be much more sacred than that of politicians.

POWERHOUSE

When Robert Finch, in a press conference just before his departure from the Administration in December, confirmed that all was not well between the White House and the Cabinet, the transcript was collected eagerly by White House reporters. "I think that is one of the biggest stories you will have to cover," Finch said, "how that tension between the White House staff and the Cabinet works." He tried to mitigate this bit of candor by saying that the tensions between the White House and the Congress and the story of the tensions between the White House and State Houses, and the story of revenue sharing, would be interesting, too. But Finch had spilled the beans, and this was something the reporters could report.

President Nixon is not the first President to accrue power in the White House and to take some pains to deny it. The purposes of the exercise, it seems, are to throw journalists and congressmen off the scent, to betray no unseemly penchant for power, and to con-

vey the impression of frugality with public funds. While previous Presidents had their powerful and famous White House asssitants, it remained for Lyndon Johnson, as was his wont, to multiply the effect. Yet the precise size of the White House staff was one of the mysteries of the Johnson Administration. Through a nice piece of legerdemain, several White House aides were "on loan" from other agencies, and their salaries were charged elsewhere.

When President Nixon took office four years ago, it may be recalled, he displayed his new Cabinet officers on television, and described them as men of "extra dimension." His assistants told reporters that "there will be no Califano here," referring to Joseph Califano, Mr. Johnson's powerful assistant for domestic affairs. This was among other things, part of a concerted effort to establish that Mr. Nixon was going to be very different from Mr. Johnson. Much was made of the facts that the lights were on again at the White House, and that the three television sets had been removed from the President's Oval Office.

The inevitable accretion of power in the White House stems in part from the fact that there is really no other way to run the government. The more the government does, the more there must be a central body to coordinate its workings. The major issues of the day—such as the economy, race, cities, foreign policy, balance of payments—are not divisible into neat parcels to be distributed among the various Cabinet departments. An issue of trade relations can involve the Departments of Treasury, State, and Commerce, and the White House offices dealing with domestic and international economics and trade negotiations. A domestic issue of any consequence can involve the Departments of Justice, of Housing and Urban Development, of Transportation, of Health, Education and Welfare, and perhaps even Interior or Agriculture or what remains of the Office of Economic Opportunity (the poverty program). The White House and its executive arm, the Office of Management and Budget, must bring them together. Whatever rare efforts have been made by agencies to coordinate among themselves have been resisted by the OMB. The power to coordinate is power indeed.

Moreover, the budget itself is power. In the course of drawing up the budget, the President and his staff make crucial decisions about the arrangement of priorities, policy, and authority. The failure of the Congress to examine or shape the budget coherently also supplies a vacuum into which the executive and its budget makers have moved. Therefore, the Budget Bureau, which was a Wilsonian reform proposal finally adopted in 1921, has grown in importance in tandem with the White House which it serves. As the Johnson Administration piled up the programs and responsibilities, one weary Cabinet officer surveyed the scene and concluded that "Califano and Schultze [Charles Schultze, then director of the Budget Bureau] are holding the whole rickety business together."

The Nixon Administration, its protestations notwithstanding, had little alternative but to go along with the trend. Mr. Nixon moved his budget director from the Executive Office Building into the White House West Wing—a move which "Washington observers" knew to be significant. Subsequently it was said that the budget office would also "manage" the programs. It was understood in Washington that the terminological move from "coordinate" to "manage" was meaningful. Two axioms applied: the more powerful the Budget Bureau is, the weaker are the Cabinet agencies; the more proximity the budget officials have to the White House, the more politicized their decisions become.

There is also the factor of human nature. People who seek the presidency, and people who help them attain it, do not tend to be uninterested in power. White House assistants, moreover, have the unparalleled advantage of access to the king's ear. As George Ball once put it, "Nothing propinques like propinquity." As inevitable as the sunrise and traffic jams are the stories out of Washington of the complaints of congressmen and Cabinet officers about the inaccessibility of the President and the arrogance of his assistants who block their path to the Oval Office. Only the names of the offenders change: Sherman Adams, Kenneth O'Donnell, Marvin Watson, and Joseph Califano have been succeeded by Robert Haldeman and John Ehrlichman. Presidents need such people in the constant struggle for power in Washington, those who inhabit the White House hold the cards.

THE CHASM

The way in which the executive branch is managed, and its internal distribution of power, are also determined by the personal characteristics of the people at the center. The traditional rationales for regular Cabinet meetings no longer exist. Another reason why the Cabinet hardly ever meets anymore is that the President does not like meetings. His distaste for confrontations tends to place Cabinet officers with persistent disagreements out of sight and favor, and any President prefers some personalities to others. In the Nixon Administration's first term, the only Cabinet officers who gained any real access and power were John Mitchell, John Connally, George Shultz, and Melvin Laird.

Cabinet officers in any administration may have difficulty straddling the great divide that can exist between the President at whose pleasure they serve and the bureaucracy over which they preside. Robert Finch, who began at HEW, fell into the chasm; from time to time his successor, Elliot Richardson, teetered on the brink. This problem is exacerbated in the Nixon Administration, especially on domestic issues. At first there was a theory prevalent in Washington that the Nixon Administration was not interested in governing. In retrospect, it is more accurate to say that the people in the new Administration were less familiar with government than were their predecessors and had, inevitably, a different set of assumptions about its purposes. The exercise of power by the Nixon White House grew in direct proportion to its familiarity with the terrain. But whereas the Johnson White House was likely to intervene in the bureaucratic processes to propel a program along, the Nixon While House was likely to intervene to slow it down. Any White House will interfere with the bureaucracy on behalf of its political allies, but the allies will differ from administration to administration.

Yet the Nixon White House does have a kind of them-versus-us view of the bureaucracy, based in part on misapprehension of the nature of the federal bureaucracy. The prevailing characteristic of that bureaucracy is not so much (as many in the Nixon White House believe) that it is populated largely by Democrats but rather that its members tend to believe in what they do. The dispenser of vocational education grants believes in vocational education; the civil rights enforcer believes in enforcing civil rights; the administrators of the highway program believes in building highways; the procurer of aircraft carriers is convinced of the importance of procuring more aircraft carriers. The experienced Washington bureaucrat cultivates his allies in Congress and the interest groups, and understands the techniques of survival. What to the White House appears to be subversion of its goals is, to the bureaucrat, protection of a worthy activity.

Every White House has had problems with the bureaucracy; the Nixon Administration, strapped for money, skeptical of federal programs, has many. The Nixon men therefore tend to suspect the bureaucracy, to shut it out of policy considerations, and to try to fill it with Republicans. (The latter effort is a matter of some controversy in Washington. There are many reports that people entering the bureaucracy at levels where, by law, their politics are supposed to be irrelevant are asked about their party affiliation. There were reports of this sort of questioning during the Johnson Administration, too. Republicans perhaps have to try harder because Republicans, by definition, are less attracted to government. Whatever the case, their suspicions about the large number of Democrats in the bureaucracy are not without basis, given the many years of Democratic control of it.)

SEESAW

The exigencies of coherent governing, plus the White House penchant for seclusion and suspicion, shaped the recent rearrangements. They also added to Washington terminology The job description that signifies power was raised a notch. It no longer suffices to be a Cabinet officer, or even a White House assistant; one must be a "czar." This term does not show up in official announcements, of course, but everyone knows who the "czars" are: George Shultz, John Ehrlichman, Henry Kissinger, and Roy Ash, the new director of the Office of Management and Budget. ("Czars," by the way, do not have to be confirmed by Congress. Shultz needed confirmation to become Secretary of the Treasury, but by presidential fiat his economic policy domain now extends far beyond that.) These are the people with whom the President will deal on policy matters; they will bring him the information and transmit his decisions to the rest of the government. Cabinet officers will have to be content with operating within this framework.

There was a very large question as to how consequential were all of the changes of personnel and organization announced during the transition from Nixon I to Nixon II. Even though the "Washington observers" knew this, the changes inevitably became the stuff of headlines, speculation, and talk. In spite of the fact that the policies of Nixon II already were pretty clear—or perhaps *because* of the fact that the policies were known and there was therefore little else to talk about—the new appointments filled many column inches and hours of conversation.

For example, when Elliot Richardson was transferred from the Secretary's chair at HEW to that at Defense, Washington observers considered a number of possibilities. The appointment might be viewed in the context of the relationship between Richardson and Henry Kissinger, which, when Richardson was Undersecretary of State at the beginning of the Nixon Administration, had been good. But that raised the question of whether that was good or bad for Richardson in light of the rumor then making the rounds that Kissinger's standing with the President might not be as high as it once was. This was based on speculation, aired in a syndicated column by Tom Braden, that in his dealings with the North Vietnamese, Kissinger had exceeded his presidential charter. (Thus, according to this theory, he had announced that peace was "at hand" when it was not, since he had reached terms which were agreeable to neither Messrs. Thieu nor Nixon.) Richardson was chosen over Kenneth Rush, the Deputy Defense Secretary, one theory went, because Henry (all self-respecting Washington observers, whether or not they have ever met the man, refer to Kissinger as "Henry") had a low opinion of Rush. This, of course, assumed that Kissinger was in good standing. But then what did it mean when Rush was subsequently named Deputy Secretary of State? Was Rush being shunted aside (Kissinger is up) or being positioned to succeed William Rogers (Kissinger is down)? Was Richardson being sent to Defense to slash its budget or to

provide a liberal camouflage for its continued growth?

The columnists play an important part in the process of deciding these things. Those "Washington observers" read the columnists with a sharp eye out for tales officials are telling and for who is doing what to whom. James Reston, for example, wrote a column in early December entitled "And What Now About Henry?" (Reston, of course, does know Kissinger, and anyone worth talking to in Washington knew that the column was based upon a conversation with him.) Reston said that despite the reappointment of Rogers (Kissinger is up), Kissinger's future was unsettled in his own mind. Reston had some hard news. Kissinger was troubled, the column said, by the wide extent of his influence, and by being shielded by executive privilege from questioning by the Congress. Until the column appeared, Kissinger's anguish over these matters had not been a subject of much speculation.

PERILOUS

Guidance on the Richardson question was provided in columns by the writing team of Rowland Evans and Robert Novak. From them it was learned that Richardson's deputy at Defense, William Clements, a Texas conservative, had been selected not by Richardson but by the White House. This was a crucial signal, for Washington observers know that leaders who cannot choose their deputies are without power. The message to the civilian and military bureaucracy was that the new Secretary could be circumvented, and the Pentagon bureaucracy cannot be outdone at circumvention. A week later, the "defense community" was reported by the columnists to be in "a frenzy." It seemed that Richardson might exercise the option of choosing his own assistant secretaries, and was considering two young men who had opposed the war and certain defense spending. Washington observers knew that someone in the "defense community," where the columnists are known to have good sources, was trying to sandbag the appointments and hog-tie Richardson.

It was, as the columnists said, "a classical Washington power struggle"—the sort of thing Washington observers love to read about over breakfast and talk about over lunch and dinner.

Although many in Washington had forgotten that the Department of Commerce existed, the removal of Peter Peterson as its Secretary became an important subject. It was known—such things become known—that Peterson had not asked to leave. The question, therefore, was why Peterson's career in the Nixon Administration had been derailed. Was it a move by the White House to curb the drive for the 1976 presidential nomination by Charles Percy, Peterson's former employer at Bell & Howell, and not exactly a White House favorite? While this was considered possible, other factors were given more weight. Peterson's style was too flamboyant: he spent too much time cultivating (successfully) the press; he turned up too often in Georgetown (for which read: homes of liberal journalists). It is perilous to negotiate the long passage from the White House to the Washington community of fashionable liberal journalists and politicians. One must tell the journalists and politicians just enough to interest and amuse them without arousing, back at the office, suspicions of disloyalty. Kissinger and presidential speechwriter William Safire, reyling on their brains and disarming wit, succeeded. For others, the attempt proved fatal.

There may even have been policy considerations surrounding Peterson's demise. Had he, an advocate of liberal trade policies, run afoul of the protectionist-minded businessmen who are the Commerce Department's clientele? (While some Cabinet officers get in trouble for representing their Department's clientele too well, others can fall from grace for pleasing them insufficiently. Such was said to have been the fate of James Hodgson, who was removed as Secretary of Labor and replaced by Peter Brennan, a leader of a construction trade union and symbol of the Administration's hope for a new Republican coalition. When Ronald Ziegler, the President's press secretary, announced that John Volpe would be named Ambassador to Italy, he pointed out that Volpe "started at the bottom of the construction trades as a hod carrier.")

The manner in which the announcements about personnel changes were made also told much about the capital during the period of transition from the first Nixon Administration to the second. The Cabinet appointments, once the subject of a television spectacular, were left to Ziegler. Neither the President nor the appointees were present. The communications between Ziegler and the press corps sank deeper and deeper into the trivia (the age, ninety-six, of a Pennsylvania state senator who was meeting with the President) and tired jokes (Kissinger's women) that have come to characterize these exchanges. Reporters who tired of waiting outside the formidable sets of fences at Camp David for Ziegler's news gathered in the White House press room, where the briefings were piped in over a loudspeaker. The scene was surreal. Reporters took notes and tape-recorded the disembodied voices. Perhaps in reaction to being at this still further remove from the realities of government, the reporters made wisecracks back to the loudspeaker. One day, the following exchange between the press secretary to the President of the United States and a member of the free press, guardians of democracy, came over the loudspeaker in the White House press room:

Q. The last time the President was up here he was reported to be seen strolling around in a pair of flared purple trousers. I wonder if you are prepared to confirm that he has such a pair.

A. Well, he wears sports clothes up here from time to time. I think "flared" is a little exaggerated. Some of his slacks don't have cuffs on them [laughter]. I mean he's a regular guy. He wears sports clothes [laughter].

Q. Does he have a purple pair?

A. I don't know if he has a purple pair. He has other colors. He has blue, maroon, and other colors. . .

GENOCIDE CONVENTION DOES NOT THREATEN CONGRESSIONAL OR STATES' RIGHTS

Mr. PROXMIRE. Mr. President, as we consider the Genocide Convention, I want to address myself toward those who have advanced the opinion that U.S. ratification of the Genocide Convention would result in the surrender of certain congressional and States' rights. Some critics have expressed the fear that this treaty usurps the expressed power of the Congress to define and punish offenses against the law of nations. Solicitor General Philip Perlman addressed this issue in testimony before a subcommittee of the Senate Foreign Relations Committee in 1950 when he stated that—

This treaty will not bypass Congress or in itself legislate Federal Criminal Law.

Indeed, the treaty itself states that it is the duty of the domestic legislatures of the signatories involved to undertake action to state what offenses are punishable, to prescribe penalties and to try the guilty persons, thus implementing the provisions of the treaty.

The States, like the Congress, will not suffer any loss of their constitutional rights if the United States ratifies this convention. It is argued that if the Senate approves a convention which will become a part of our domestic law, then this will be the equivalent of the States' having to surrender their jurisdiction in that field of criminal jurisprudence to the Congress. However, Congress has already been invested with the power to prescribe penalties for offenses against the law of nations. This is made clear by our Constitution. It is impossible to deprive the States of jurisdiction which was never theirs in the first place.

In the words of Prof. Richard Gardner:

Our ratification of this Convention will dissipate the embarrassing contradiction between our failure to act and our traditional leadership in support of basic human rights.

Mr. President, I urge the Senate of the United States to delay no longer in ratifying this important document.

NOTED OREGON EDITOR COMMENTS ON FREEDOM OF THE PRESS

Mr. HATFIELD. Mr. President, on January 18, I introduced a bill (S. 451) to protect our first amendment right to a free press. At the conclusion of my remarks, I was granted unanimous consent to have several articles on the subject entered in the RECORD. Since that time I have received another editorial by Mr. Eric W. Allen, Jr., of the Medford Oreg., Tribune, whose father served as the distinguished dean of the School of Journalism at the University of Oregon.

Mr. Allen's comments reflect a perceptive assessment of the issues involved in granting newsmen protection from forced disclosure of their confidential sources and information. I ask unanimous consent that the editorial, which clearly enunciates the people's right to know, be printed in the RECRD.

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

TO WHOM IS THE PRESS ACCOUNTABLE?

(NOTE.—This editorial takes the form of a personal letter.)

DEAR R—: Following our recent discussion of the problems the press has had in recent months, with subpoenas and the jailing of reporters, and so on, you wrote to say you still feel the press should be just as "accountable" as everyone else seems to be these days.

I agree completely. The question is not accountability; the question is, accountability to whom?

The First Amendment to the U.S. Constitution reads in pertinent part:

"Congress shall make no law . . . abridging the freedom of speech, or of the press. . . ."

Note that the two freedoms—speech and press—are bundled together, and complement each other. They are inseparable, for if speech is to be free, it must also be free to be distributed. That is the reason the two are tied together, for without one, the other is insignificant. They are people's freedoms, both of them.

Note also that the Constitution says "Congress shall make NO law. . . ." This is flat and unqualified, with no ifs, ands, buts or howevers.

The Founding Fathers, in this way, sought to guarantee that every person should be free to say what he thinks, and to find a way in which his opinions—political or otherwise—can be widely disseminated.

As to accountability—and you and I agree that people and institutions should be accountable—to whom should the press owe its accountability? To Big Brother? To the President? To the Congress? To the Courts?

I say no—the press must be accountable only to the ultimate power and authority in a self-governing nation: the people.

That was what the Founding Fathers expected, and what they attempted to guarantee in the First Amendment.

Today, however, through the pretext (and it is no more than that) of relying on the Sixth Amendment, which guarantees a fair and speedy trial to persons accused, the press has come under increasing pressure from prosecuting attorneys, grand juries, and judges.

They have attempted to force newsmen to reveal the sources of their information, and when the newsmen have refused—on the excellent grounds that these are confidential, and that to reveal them would be to dry up sources of "non-official" information—they have been jailed.

A newsman is a citizen. As such, he is under the same obligation as any other citizen to be accountable—to the duly constituted agencies of government in a dozen different fields. But when he is acting in his capacity as a newsman, and exercising the constitutionally-protected right to report the news as he sees it, his accountability to officialdom should end.

In doing this, he is accountable to the people—his readers. It is they he serves; not judges, or district attorneys, or grand juries. It is for the people—not officialdom—to judge whether he is trustworthy, or truthful, or honest.

And his readers have a number of ways of insisting on that accountability. They can turn to other sources of news, which is a powerful sanction, or they can make their dissatisfaction known to the newspaper, in person or by letter.

A newspaper's only stock in trade is the range of services it provides its readers, and of these the most important is the general level of accuracy and reliability of its news, and the integrity of its reporters and editors. (It is going to make mistakes, because all human institutions make mistakes, but if it is forthright in correcting these, that adds to its reputation for integrity.)

For nearly two centuries, these assumptions have governed the relationship—often an uneasy one—between the press and government. Only within the past year or two have efforts to muzzle the press—to make it accountable to public officials, rather than to its readers—made any headway.

The Pendleton East Oregonian recently made the point this way:

"The best guarantee people in a democracy have that it will survive is freedom of the press to report fully those events that stem from government, and their meaning. From the beginning of this nation, the press and the government have been adversaries because the press has been responsible to the people government serves, not government."

Phrased differently, the point was made in a letter to the Wall Street Journal last November, which said in part:

" 'The press' as used in the First Amendment refers to the use of a thing by all people. It is not something confering special privilege to an elite . . .

"To state . . . that newsmen are a special breed granted special privilege by the First Amendment is a galling arrogance that most of us less equal folk are finding intolerable."

Newsmen are not a special breed, except insofar as they have chosen to serve the people by trying to tell them what they need to know—and to do so they must be free to poke and pry and turn over rocks and—this is important—talk to people who may know of shady goings-on but who are reluctant to be quoted, and for good reason.

They must be free to do this if the readers are to get the kind of information they need to make intelligent decisions in the exercise of self-government.

This is the reason—the only reason—why so-called "shield laws" are being proposed, that would make it impossible to force reporters to divulge their sources of information.

The Press is accountable. No institution is more so, for everything it does is placed on public view to be judged by the public.

If the day comes when that accountability is due, not to the people, but to government officialdom, the First Amendment guarantees of free speech and free press—which are inseparable—are in dire danger.

EUGENE L. WYMAN

Mr. KENNEDY. Mr. President, I wish to express my sadness over the recent death of Eugene L. Wyman, who had many personal friends in this body.

His family, the law, philanthropy, politics. To these, Gene Wyman devoted a lifetime all too brief; and to each he committed all the love energy and dynamism which he amply possessed.

In every responsibility he undertook, he was "a take charge guy" with an unlimited capacity for industry.

A brilliant advocate, he built a reputation as one of the finest trial lawyers of his generation.

He gave dignity to the difficult job of raising funds, which he did so effectively for civic, political, and philanthropic causes.

My family and I first came to know Gene Wyman through his wife, Rosalind, a woman of extraordinary talents herself. Her concern for the public affairs of her community and her country were, I am sure, an inspiration to Gene throughout his life.

But with all their generous involvements in public service, Gene and Roz were devoted most of all to each other, their children, and their family. Eight weeks ago I was privileged to participate in a dinner honoring Gene and Roz Wyman for the help and support they had given as American friends of the Hebrew University in Israel. His young daughter, Betty, spoke for the Wyman children of the love that existed in their family and how close they were to one another. All of us will miss Gene. Though only 47 years long, his life was one full of satisfaction. And the night we were last together reflected that life. He had reason to be proud of his accomplishments and to have so many good friends who respected him. But he was proudest of all of his wife and his children. And he showed it.

RULES OF DISTRICT OF COLUMBIA COMMITTEE

Mr. EAGLETON. Mr. President, the following committee rules have been adopted by the Committee on the District of Columbia. As required by Public Law 91-510—The Legislative Reorganization Act of 1970—these rules must be printed in the CONGRESSIONAL RECORD. I ask unanimous consent that they be so printed.

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

RULES AND PROCEDURES OF THE SENATE COMMITTEE ON THE DISTRICT OF COLUMBIA

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, and notice given, the Committee shall meet regularly at 10:30 a.m. on the second Friday of each month. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary, or at such times as a quorum of the Committee may request in writing, with adequate advance notice provided to all members of the Committee. Subcommittee meetings shall not be held when the full Committee is meeting.

Rule 2. The rules of the Senate and the provisions of the Legislative Reorganization Act of 1970, insofar as they are applicable, shall govern the Committee and its Subcommittees. The rules of the Committee shall be the rules of any Subcommittee of the Committee.

Rule 3. The Chairman of the Committee, or if the Chairman is not present, the ranking majority member present, shall preside at all meetings. A majority of the members of the Committee shall constitute a quorum of the Committee. However, the Committee may authorize a quorum of one Senator for the purpose of taking testimony.

Rule 4. Unless otherwise determined by a majority of the Committee, written proxies may be used for all Committee business, except that proxies shall not be permitted for the purpose of obtaining a quorum to do business. Committee business may be conducted by a written poll of the Committee, unless a member requests that a meeting of the Committee be held on the matter.

Rule 5. There shall be kept a complete record of all Committee action. Such records shall contain the vote cast by each member of the Committee on any question on which a yea and nay vote is demanded. The record of each yea and nay vote shall be released by the Committee either at the end of the executive session on a bill or upon the filing of the report on that bill as a majority of the Committee shall determine. The clerk of the Committee, or his assistant, shall act as recording secretary on all proceedings before the Committee.

Rule 6. All hearings conducted by the Committee or its Subcommittee shall be open to the public, except where the Committee or the Subcommittee, as the case may be, by a majority vote, orders an executive session.

Rule 7. The Committee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 72 hours before a hearing and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee.

Rule 8. Should a Subcomimttee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such Subcommittee and report that fact to the full Committee for further disposition.

Rule 9. Attendance at executive sessions of the Committee shall be limited to members of the Committee and the Committee staff. Other persons whose presence is requested or consented to by the Committee may be admitted to such sessions.

Rule 10. The Chairman of the Committee shall be empowered to adjourn any meeting of the Committee if a quorum is not present within 15 minutes of the time scheduled for such meeting.

Rule 11. Subpoenas for attendance of witnesses and for the production of memoranda, documents, and records may be issued by the Chairman or by any other member designated by him. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced. All witnesses subpoenaed before the Committee who are to testify as to matters of fact shall

be sworn by the Chairman or another member.

Rule 12. Accurate stenographic records shall be kept of the testimony of all witnesses in executive and public hearings. The record of a witness' own testimony, whether in public or executive session, shall be made available for inspection by witnesses or by their counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by a witness in executive session and subsequently quoted or made part of the record of a public session shall be made available to any witness at his expense, if he so requests. Witnesses not testifying under oath may be given a transcript of their testimony for the purpose of making minor grammatical corrections and editing, but not for the purpose of changing the substance of the testimony. Any question arising with respect to such editing shall be decided by the Chairman.

Rule 13. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a quorum of the Committee so determines in a regular meeting with due notice, or at a meeting specifically called for that purpose.

SENATOR SAM J. ERVIN

Mr. PERCY. Mr. President, I invite the attention of Senators to an article in yesterday's Evening Star-News on the distinguished senior Senator from North Carolina, SAM J. ERVIN. All of us who have worked with SAM ERVIN admire him for his qualities of wisdom, scholarship, and integrity, and Shirley Elder of the Star-News captures these qualities vividly. He is indeed eminently suited to perform the important tasks he has been assigned. As ranking minority member of the Government Operations Committee, it is my particular pleasure now to work with Senator ERVIN in his new position as chairman of the committee.

I ask unanimous consent that the article printed in the RECORD.

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

MAN IN THE HOT SEAT ON CAPITOL HILL

(By Shirley Elder)

Samuel James Ervin, Jr., lawyer, judge, defender of the Constitution, took office as the junior senator from North Carolina on June 6, 1954. Almost immediately he was in the middle of things.

Only weeks before, the Supreme Court had jolted the South and ruled that separate-but-equal public schools were not equal enough for black kids. Ervin, born in the South, quarreled with that ruling and helped draft the Southern Manifesto to protest.

In those days, Sen. Joseph McCarthy still was hunting Communists and terrorizing federal workers, riding high, heading for a fall in which the new senator would figure prominently—as one of those who solemnly contemplated the facts and recommended censure.

The world has changed since 1954 but not Sam Ervin. He looks to the future in terms of the past with unabashed reverence for the United States Constitution as written, opposing expansion of those words either to the left or to the right.

He criticized the Supreme Court for expanding the Constitution in 1954 to outlaw segregated schools; he criticizes the Supreme Court today for narrowing the Constitution to force a newsman to testify before a grand jury.

Over the years Ervin often has found himself in the middle of controversy, fighting civil rights bills, fighting for individual rights, gaining a reputation as a constitutional expert. But the battles usually came one at a time.

Today Ervin again is in the middle of controversy and it is all coming at once. Acting as chairman of the Government Operations Committee, or one of two Judiciary subcommittees, constitutional right or separation of powers, or as chairman of a new special investigating unit, Ervin will lead some of the most important legislative battles of the new Congress.

Starting today, he will conduct hearings on one of the hottest topics of the day, impoundment—President Nixon's practice of refusing to spend money appropriated by Congress. Ervin has a bill to give Congress a veto over impoundments.

Starting Feb. 20, Ervin will conduct hearings on a basketful of proposals designed to protect newsmen from court actions forcing them to reveal confidential information. He says legislation should not be necessary but the courts "missed the boat."

"I've always said all judges should possess wisdom as well as knowledge," Ervin said in a recent interview. "And I think if I'd been a judge out in California, I'd've exercised a little wisdom and tried not to compel that newsman (New York Times reporter Earl Caldwell) to reveal his sources."

That lack of wisdom, Ervin said, carried on up to the Supreme Court which rejected Caldwell's plea in a 5-4 decision. "Five of them muffled a golden opportunity to do something constructive in this field," Ervin said, "and they just flatly held the First Amendment didn't give a newsgathering any privilege at all."

Ervin said that in his own opinion, each case should be decided on its merits. There are some situations where a newsman should be compelled to testify but there are others when he should not. The courts must balance the two interests of society—to know what is going on through a free press and to prosecute crimes in which newsmen may have knowledge.

Starting as soon as a federal court trial is completed, Ervin then will take on the politically touchy issue of the bugging of the Democratic Party headquarters at the Watergate—and related tales of political espionage from the 1972 presidential campaign. He says it will be a thorough investigation and no witnesses will be allowed to duck behind a wall of "executive privilege."

"I think the Watergate is a very serious affair," Ervin said. "There are serious charges made about the spying on presidential candidates. There are serious charges made about attempts to disrupt political meetings. There are serious charges made about the misuse of campaign funds. And I think all of these things ought to be investigated.

"If people are not guilty about some of the insinuations, they ought to be exonerated: And if they're not guilty, they ought to insist on their own exoneration."

NO EXECUTIVE PRIVILEGE

Ervin said he is particularly concerned about the so-called "Canuck incident" in which Sen. Edmund S. Muskie, D-Maine, then campaigning for the Democratic presidential nomination, was accused of prejudice against French Canadians (by calling them "Canucks") in a letter to the Manchester (N.H.) Union Leader. The author of the letter, never located, was said to be a White House aide.

Ervin said the plea of executive privilege, often claimed as a general immunity from Congressional scrutiny for all White House staff, will not be accepted in the Watergate investigation.

Executive privilege is another area of Ervin concern and he enthusiastically backed a Senate Democratic Caucus resolution that would limit its use and provide for Senate review whenever a witness claims such immunity to avoid testifying.

There is a legitimate area of executive privilege, he said, but it is not an absolute right. It can be inferred from the constitutional grant of executive power to the President that there must be some confidential matters between President and staff, Ervin explains, just as investigative authority is seen as a necessary tool in Congress' power to legislate.

MIX OF CORNPONE, WISDOM

Ervin approaches his collection of assignments this year without hesitation: "My wife says if I see a controversy from far off, I come running right up and jump into the middle of it," he said.

But, when it comes to the Constitution, and all these matters touch in some way on the Constitution—rights and powers—Ervin is ready. He is, as one aide said, a scholar as much as politician. He reads constitutional law cases for recreation.

At 76, Ervin's hair is grayer than when he arrived in Washington. His tall frame is a bit stooped but his words tumble out in a mix of cornpone and wisdom that has become familiar over the years on Capitol Hill.

His trademark is the folksy anecdote that makes a point: "Way back younder when I used to practice law . . ." or "We had a very fine poet in North Carolina some years ago . . ." or "That reminds me of a story . . ."

Sometimes the stories go on and on, punctuated by eyebrows that shoot up and down giving Ervin a slightly astonished look. But he obviously enjoys the stories and wants everyone else to. Often, as he speaks on the Senate floor, he will glance up to the press gallery to make certain the newsmen are getting the point.

But the great flow of words dries up when Ervin is asked about his personal life. He lives across the street from the Capitol in the Methodist Building with his wife of nearly 50 years. He is a private person. At home in Morganton, N.C., he likes to fish. In Washington, he reads.

EUGENE WYMAN

Mr. INOUYE. Mr. President, I wish to join with Senators in paying tribute to a great and good friend of so many Members of this body who passed away recently—Eugene Wyman. Those who were not privileged to know him in person knew him by reputation, particularly on this side of the aisle, for he had been of significant help to many. Gene Wyman was best known in the political world for his willingness to be of help in securing those resources which are essential in this country to gain due consideration for a candidate and a program in our elections. He recognized that need and he volunteered his generous talents with great dedication to that most difficult of tasks—raising sufficient money for many candidates of my party so that they would stand a serious chance of being reasonably considered on election day.

This is not the glamour job of politics. It is drudging, hard work. But it is work that Gene Wyman did cheerfully and most ably. He did it at considerable cost to himself and his family in both physical and monetary terms. He performed this difficult task without thought of compensation, with no quest for personal publicity, but with a deep sense of commitment to try to "square the odds" that

our political system might work its will more fairly and responsibly.

Those of us who make politics our lives will miss Gene Wyman. More important, our political system and our country will miss him. We share the grief of his lovely family over his untimely departure. We share also the great honor of having benefited from his presence among us.

DEPARTURE OF ROBERT BALL FROM SOCIAL SECURITY SYSTEM

Mr. McGEE. Mr. President, I wish to pay special tribute to an individual who has rendered superb service to the Nation as Commissioner of our social security system.

It is with a deep sense of regret that I view the President's decision not to retain Mr. Ball as Social Security Commissioner.

In an article published in the Washington Star-News of January 5, 1973, writer Philip Shandler noted that Mr. Ball's departure comes at a time when the social security program is on the verge of what may be the biggest job ever for an agency with one of the most complex missions in Government.

Bob Ball has been characterized as a near genius by Representative WILBUR MILLS, chairman of the House Ways and Means Committee, which makes the dismissal of this public servant all the more unpalatable to many of us.

Bob Ball has rendered the Nation a public service that is incomparable. His knowledge, his remarkable abilities, and his intense dedication to his job and profession will be sorely missed. It is regrettable the President did not have the foresight to retain Bob Ball as Social Security Commissioner.

I ask unanimous consent that Mr. Shandler's article be printed in the RECORD.

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

SOCIAL SECURITY CHIEF DROPPED

(By Philip Shandler)

President Nixon has decided not to retain Social Security Commissioner Robert M. Ball in the second term. Ball's departure comes as the Social Security program is on the verge of what may be the biggest job ever for an agency with one of the most complex missions in government.

In a statement prepared to coincide with the impending White House announcement, Ball, 58, said recent Social Security legislation was so significant "it can be said that the program has come of age." And he added: "It is particularly difficult for me to leave now and not be a part of these efforts . . ."

The President was expected to announce soon, possibly today, that he has accepted the resignation of Ball, a 33-year federal careerist who for more than a decade has overseen unprecedented expansion of what is now the world's biggest retirement and insurance system.

PRAISE FROM MILLS

Rep. Wilbur Mills, D-Ark., chairman of the House Ways and Means Committee, which handles Social Security legislation, said it would be "hard to find an equal to Bob Ball," whom he called "a near-genius."

Dialogues between Ball and Mills have been a familiar and instructive fixture of congressional activity for years. And Mills said he would be "watching carefully" the choice of a successor.

Social Security annuity increases, Medicare extensions and the first federalization of a welfare program—the so-called adult categories of state aid to the needy aged, blind and disabled—were voted by Congress in its last session.

This will require, Ball said, "at least as much effort and complexity for the Social Security Administration as the setting up of the Medicare program" of health insurance for the elderly eight years ago.

But he insisted that his resignation is a "mutually agreeable departure," and that he had "every confidence that the organization will perform well" under new direction.

There was no immediate explanation from the White House for letting Ball go, nor on a successor. His deputy, Arthur Hess—the only other political appointee at Social Security has not been told to go.

Ball said he would stay on until a successor takes over.

A spokesman for Sen. Russell Long, D-La., chairman of the Senate Finance Committee, said he hoped the White House "won't politicize the job."

This could happen, however, with what many see as a conservative mood clouding the prospect for further expansive social legislation from the Congress that convened this week, and thus minimize the need for a Social Security chief of Ball's expertise.

Ball, a native of New York, developed an interest in Social Security while a senior at Wesleyan University in 1935, from a professor who was a consultant on the newly created program.

In 1939, he took a $1,620 job as a field representative, became a protege of Wilbur J. Cohen, and rose to become deputy director of the Bureau of Old Age and Survivors Insurance in 1954.

Cohen was named secretary of the Department of Health, Education and Welfare—Social Security's parent agency—by President John F. Kennedy, and Ball was promoted to head the Social Security program in 1962.

"SUPERB ADMINISTRATOR"

"A simply superb administrator," Cohen was quoted as describing Ball in a profile a few years ago.

At the same time, Ball was described by an anti-poverty worker as "my favorite bureaucrat . . . This guy really cares."

A husky six-footer with a quiet voice, Ball seemed at congressional hearings to have an inexhaustible supply of facts and patience.

In recent years, he has received top awards for service from both the government and the private sector.

In an interview, Ball said there was "very little different" he would like to have seen develop in his field legislatively.

"We've got about all one can say grace for now," he said.

When he leaves, Ball intends to write a book—"doesn't everyone?"—he said. It will deal with "the tendency in some quarters to see Social Security as just another government program."

SENATOR McCLELLAN'S RESIGNATION FROM THE PERMANENT INVESTIGATIONS SUBCOMMITTEE

Mr. GURNEY. Mr. President, I would like to take this opportunity to congratulate my distinguished colleague, the senior Senator from Arkansas, Senator MCCLELLAN on his distinguished service as chairman of the Permanent Investigations Committee of the Government Operations Committee. During the 18 years he headed that subcommittee, more investigations were held than under any other previous chairman—and the scope of these investigations has led to a number of badly needed reforms. Indeed, JOHN MCCLELLAN has compiled a remarkable record as a congressional investigator. Although his leadership in this area will be missed, fortunately, his acceptance of the chairmanship of the Appropriations Committee means that the Nation will continue to reap the benefits from his years of experience.

JOHN MCCLELLAN first became a member of the Government Operations Committee, then the Committee on Expenditures in the Executive Departments, in 1943. He served as chairman of that committee from 1949 to 1953 and from 1955 until last summer. From 1955 on, he headed the Permanent Investigations Subcommittee and from 1957 to 1960 he also headed the Labor Rackets Committee—better known as the McClellan Committee. Indeed, the name JOHN MCCLELLAN has become practically synonymous with congressional investigation—and for good reason.

Few of us connected with Government will forget—or fail to acknowledge the value of—the McClellan-led investigations into organized crime, into the military sea transportation service, into OEO grants, into defense contracts, and into military service clubs. As one who took part in the last of the aforementioned investigations, I can attest to both the need for them and the proficiency the subcommittee chairman showed in conducting them. As I said last August, at the time he moved over to the Appropriations Committee, Senator MCCLELLAN has repeatedly shown, during the course of these investigations, a sense of fairness and consideration that might not be expected in a lesser man.

What is really impressive about all these investigations is not the headlines—although there were many—but the results. Despite all kinds of difficulties, the efforts of the subcommittee, under Senator MCCLELLAN's leadership, have led to dismissals, convictions, corrective legislation, administrative improvements, and billions of dollars saved the American taxpayer.

For instance, the 1961 military sea transportation service investigation revealed improper practices by contractors and supervisory personnel alike. As a result, a top official was forced to resign and certain defense contract procedures were revised.

Further tightening of defense contract procedures came about as a result of the "pyramiding of profits" hearings of 1962 and the famous TFX probe that began the same year. In the first instance, in addition to the $7.9 million in excess profits the government later recovered, the Defense Department was prompted to deal directly for subsystems, to put to effective use the concept of incentive contracts, and to establish a realistic scale of fees and profits to be paid prime contractors.

In the second case, the TFX probe resulted in a direct savings of $61 million in 1 year and the cancellation in 1968 of one portion of the F–111 program. When Congress stopped the Navy version of the plane, another $2 billion or so was saved.

In that connection, I cannot help but think of the problems that have plagued the F–111 right down to this very day. This aircraft had to be pulled out of

combat in Vietnam and was not reintroduced for 4 years—hardy a distinguished record. I shudder to think what might have happened had there been no investigation. If there ever was an instance that proved the value of Senator McCLELLAN's efforts, this was it.

I am also reminded that it was my distinguished colleague from Washington, Senator JACKSON, who first urged this TFX investigation. Senator JACKSON has served with Senator McCLELLAN on both the Government Operations Committee and its permanent investigations subcommittee for a long time and we are, indeed, fortunate to have such a fine successor to pick up where Senator McCLELLAN leaves off.

When I joined the subcommittee back in early 1969, the TFX probe was still underway. Since then, though, there have been several other investigations of great significance. One of these was the much-publicized service clubs scandal that grew out of—but was not geographically restricted to—the war in South Vietnam. At a time when so many young men were sacrificing so much, it was, indeed, discouraging to find that, not only were some Vietnamese making a fortune out of the war, but also that a number of misguided Americans—in and out of the armed services—were using PX's and service clubs to line their own pockets. Reform was needed, the investigation put the public spotlight on that need, and since then changes have been made.

In surveying Senator McCLELLAN's accomplishments on this subcommittee, one could not finish without mentioning the extensive investigations into organized crime. Four such investigations have already been completed and a fifth is underway. As a result, a number of important crime-stopping bills were introduced and subsequently enacted into law.

For instance, using interstate transportation or communications of any kind for the transmittal of wagering information has now been made a crime. Also, it is now a crime to use interstate transportation for gambling paraphernalia. Beyond that, other new laws crack down on criminals fleeing from prosecution or imprisonment, and make it a felony for one to carry weapons of any kind after being convicted. These measures have led to the imprisonment of hundreds of persons involved in organized crime, and are invaluable to the Federal Government's organized crime strike forces which are operating in various sectors of the country.

Furthermore, the 1963–64 hearings led to a new subcommittee being formed to draft still more legislation. Senator McCLELLAN headed up this effort, and many of the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 and the Organized Crime Control Act of 1970 came about as a result.

The same holds true for the banking and securities probes that have been held. A 1965 investigation of bank chartering policies helped formulate the Financial Institutions Supervisory Act of 1966. Similarly, an ongoing investigation of the influence of organized crime in the securities business has led to the realization that more needs to be done to protect the public in this area.

I could go on and on, but I think the point has already been made that Senator McCLELLAN has done the Congress and the Nation a great service by bringing to light numerous instances of crime and corruption that threaten our national security. We are fortunate that we still have his guidance and counsel as a member of the Permanent Investigations Subcommittee, and his assistance as chairman of the Appropriations Committee. While all of us can understand, and appreciate, the reasons for his resignation his leadership as chairman will certainly be missed. His fairness toward all running his committee and subcommittee meetings set a fine example, and his thoroughness and dedication was, and is, an inspiration to all.

I am sure I am not alone in saying that it is with regret that I see Senator McCLELLAN take his leave of chairmanship, but I do so with the knowledge that our loss is offset by the fact that the all important Appropriations Committee will now receive even more of his time and talents. The Nation is indeed fortunate—at this point in time—that such will be the case. My best wishes to Senator McCLELLAN in this challenging task and to Senator JACKSON who must now follow in his footsteps.

SENATOR RANDOLPH STRESSES NEED FOR CONGRESS TO WORK FOR SOLUTIONS TO HEALTH CRISIS

Mr. RANDOLPH. Mr. President, I have requested the able senior Senator from Massachusetts to enter my name as a cosponsor of S. 3, the Health Security Act, of which he is chief sponsor. I was a cosponsor of this legislation in the 92d Congress and wish to continue to associate myself with the current measure. I do not subscribe to each and every one of its provisions, but I do believe that the United States is in the midst of a health crisis. We in the Congress have a compelling obligation to alleviate that crisis as quickly and as well as we can.

Before we can enact legislation to help accomplish the momentous task of insuring adequate health care for every American, the American public must know the issues and think about the alternatives. The public debate has, of course, begun. The positions of the hospitals, the doctors, the insurance companies, and others have been communicated to the Congress. Now the public must be educated to the proposals before the Congress so that they, as voters and as consumers of health care, can convey their preferences to their elected representatives.

What are some of the chronic ailments that beset health care delivery in America?

First, health care is inadequate. The United States lags behind other major industrial nations in infant mortality, in life expectancy for both males and females. Health care does not exist in many rural areas. The poor in urban areas are too often neglected in the provision of health care.

Health care is expensive. Anyone who has paid for hospital costs, prescription drugs, and medical services recently knows that these costs are skyrocketing. For those on low fixed incomes the burden is difficult. For nearly everyone who is visited by a catastrophic illness, costs can be insurmountable and permanently devastating.

Health insurance protection is inadequate. Most Americans have no coverage for dental care, and more than half have no insurance for prescription drugs, doctors' office or home visits, or outpatient X-ray and laboratory services. As presently constituted, most health insurance creates a bias toward hospitalization. The cost of catastrophic illness is rarely protected against. Health insurance benefits account for only one-third of the total private health care cost.

Mr. President, I believe the time has come for a major restructuring of the system of health care delivery in America. The people of our country know the crushing burdens and frustrating inadequacies of the existing system. Each Member of Congress has heard the rumble of discontent. Let us provide the people with alternatives. Let us discuss. Let us counsel. Then let us get on with the urgent business of easing the health care crisis in America.

As a cosponsor of S. 3, the Health Security Act and as a Senator who is very concerned about the quantity, quality, and maldistribution of health care in America today, I pledge efforts to that end.

LOBBYING BY TAX-EXEMPT ORGANIZATIONS

Mr. MUSKIE. Mr. President, one of the most lively tax reform issues of the last Congress was whether tax-exempt organizations should be allowed to lobby without losing their tax-exempt status. A proposal introduced by the senior Senator from Pennsylvania (Mr. SCOTT) and myself eventually attracted 42 cosponsors, and a similar proposal introduced in the House of Representatives also generated much support.

Senator SCOTT and I are again working on a bill to permit lobbying by tax-exempt organizations. We hope to have the active participation and support of our colleagues again this year, and to draft our proposal in conjunction with a similar effort being made in the House.

The present unfair law which unnecessarily restricts lobbying by tax-exempt organizations continues to cry out for reform. Senator SCOTT and I would welcome the comments of our colleagues as we prepare our proposal. In this regard, I commend to them an article by Alvin J. Geske in the current issue of the American Bar Association's Tax Journal, entitled "Direct Lobbying Activities of Public Charities." This article gives an overview of the history of legislative proposals in this area and agrees with us that legislation is still needed. I ask unanimous consent that the article be printed in the RECORD.

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

Direct Lobbying Activities of Public Charities

(By Alvin J. Geske)

(Note.—Alvin J. Geske (B.A. Southern Methodist University, 1964; J. D. University of Chicago, 1967) is with the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. The opinions expressed herein are those of the author and do not necessarily reflect those of the Internal Revenue Service. This article was originally prepared as a seminar paper for a graduate course at The National Law Center, George Washington University.)

Under present law, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954[1] and qualified to receive deductible charitable contributions under section 170(c)(2) (hereafter referred to as a "charity") which has engaged in substantial activities relating to carrying on propaganda or otherwise attempting to influence legislation may lose its tax-exempt status under section 501(c)(3) and its qualification to receive deductible contributions. On the other hand, a taxable organization can obtain a business deduction under section 162 for expenses relating to appearances before, or communications with, a legislative body or members thereof, to further its business interests.[2]

Consequently, if a charity wishes to engage in direct lobbying—to communicate with, or make appearances before, a legislative body or members thereof—with respect to matters relating to its exempt purposes, it is at a substantial disadvantage when compared with a taxable organization. For example, if a bill is being considered in the legislature of State X to control water pollution, the Doe Steel Company, one of the principal polluters of the State's rivers, can deduct expenses which relate to appearances before, submission of statements to, or sending communications to, the State legislature or any of its members or committees with respect to such bill. Furthermore, the Doe Steel Company could deduct expenses which are in direct connection with the communication of information between it and an organization of which it is a member with respect to such proposed legislation if the legislation is of direct interest to it and the organization (as it might be if the organization were a business league). The Doe Steel Company could also deduct that portion of dues paid to any organization which can be attributed to direct lobbying activities of the organization relating to this bill.[3]

On the other hand, a charity (such as a scientific organization whose members may well have particular knowledge about the effects of pollution) would encounter substantial problems if it attempted to communicate with the State legislature on this bill. If the activities connected with such communication were found to be a substantial part of the activities of the organization and such communication did not qualify as the making available of the results of "nonpartisan analysis, study or research," it could lose its status as a section 501(c)(3) organization and its qualification to receive deductible contributions.[4] Furthermore, the organization would be greatly hindered by the fact that the "substantiality" test as administered fails to give the organization any meaningful guidelines as to the extent or nature of the political activities which may be carried on by charities.[5] In addition, the Internal Revenue Service's regulations as to when material constitutes the result of nonpartisan analysis, study or research give a charity so little guidance in determining whether particular materials qualify as the "result" of such activities that the charity would very likely be reluctant to make submissions to a legislature in reliance on the nonpartisan nature of the materials submitted.[6] Since even a review of an organization's status as a section 501(c)(3) organization or an announcement by the Internal Revenue Service that it would no longer extend advance assurance of deductibility of contributions to the organization can dry up the organization's sources of funds from other exempt organizations and from individuals respectively, the charity would have a strong tendency to avoid even insubstantial political activity for fear that a particular item, even if it represents an extremely small portion of the organization's budget and activity, could lead to an investigation of, and possible revocation of, its section 501(c)(3) exemption.[7]

Thus, section 162 provides, in accordance with Congressional intent, a clear tax stimulus for taxpayers engaged in a trade or business for profit to communicate with, and make appearances before, legislative bodies or members thereof in connection with legislation affecting their activities entered into for profit even though the positions they are advocating may be inimical to the public interest.[8] Conversely, section 501(c)(3), which is predicated upon activities beneficial to the public, operates as a strong disincentive for charities to communicate with, or make appearances before, legislative bodies with respect to matters relating to their charitable programs,[9] even though some of these organizations have members and employees who are among the "most knowledgeable people in our society in areas which relate to the commonweal."[10]

It appears that, in order for legislatures to obtain the benefit of information on all sides of legislative controversies where there are competing business and non-business interests, in accordance with Congressional intent as expressed in the Committee reports accompanying the 1962 amendments to section 162, nonbusiness groups as well as business interests should be encouraged to communicate to legislatures their views with respect to legislation and proposed legislation.[11]

BACKGROUND

Prior to the Revenue Act of 1962, Treasury Regulations under section 162 or its predecessors had consistently provided that no deduction was allowable for expenses paid or incurred for lobbying purposes.[12] Although these regulations were originally interpreted by the courts as precluding deductions only for expenses relating to illegitimate or unethical practices,[13] later decisions, including Supreme Court decisions in 1941 and 1959, interpreted these regulations to preclude deductions for expenses relating to all forms of legislative activity.[14]

Under these circumstances, there appeared to be some justification for disallowing charitable deductions to organizations which engaged in substantial lobbying activities since a contrary result would have allowed a contributor to obtain indirectly a deduction for amounts used for lobbying purposes.[15]

As indicated above, in 1962 Congress enacted section 162(e), which allowed taxpayers to deduct expenses relating to direct lobbying activities in matters of direct interest to the taxpayer's trade or business.[16] The legislative history indicates that Congress wished to make the change in prior law for the following reasons: (1) since expenses of direct lobbying relate to income-producing activities, an accurate measure of net income requires that they be deductible; (2) it is anomalous to allow deductions for business expenses incurred in appearing before executive or administrative officials with respect to administrative matters, or before the courts with respect to judicial matters, and not to allow deductions for similar expenses of appearing before legislative bodies; and (3) as a matter of governmental policy it is desirable for legislative bodies to have readily available to them information concerning the impact of present laws or proposed legislation on the trade or business of taxpayers.[17]

As a result of the enactment of section 162(e), the tax law's position of basic neutrality between business interests and nonbusiness interests with respect to political activity was altered. This change and the increasing desire of many charities to engage in direct lobbying, particularly with respect to such issues as environmental protection, birth control, and health care, have lead charities to seek modification of the restrictions of section 501()c(3) on direct lobbying.

In opposition to the charities' contention that they should be able to engage in "substantial" program-related direct lobbying, it may be argued that, except where an expense for communicating with a legislative body qualifies as a business expense by virtue of its relationship to profit-motivated activities of a taxpayer, such an expense should be considered a nondeductible personal expense, and, consequently, a contribution to an organization which engages in such activity should also be nondeductible. The short answer to this argument is that many personal expenses not related to a taxpayer's business activities are deductible. One of these categoris of deductible personal expenses is charitable contributions. The theory behind allowing charitable organizations to receive deductible contributions is that these organizations perform socially desirable functions, including some functions which relieve the government of burdens.[18]

Since the theory underlying the charitable deduction is that the recipient organizations perform desirable functions, it would seem that as a part of such programs they should be able to inform the legislative bodies of their positions on proposed legislation or the need for legislation so long as this legislative activity is limited to matters which affect the organization's charitable program (or matters which concern the status of the organization or contributions to it).

When Congress considered major tax legislation in 1969, charities were hopeful of restoring the imbalance. At the hearings charities expressed their dissatisfaction with the substantiality tests.[19] But Congress was in an uncharitable mood toward charities; an amendment that would have allowed charities to engage in direct lobbying without the limitation of the "substantiality" test was introduced by Senator Cooper,[20] but never called up for consideration. In fact, the only provision in the Tax Reform Act concerning the political activities of charities further restricts the political activities of private foundations; this provision, which adds section 4945 to the Code, imposes excise taxes on amounts paid or incurred by private foundations for direct lobbying and "grassroots" lobbying activities, even if such activities are insubstantial.[21]

RECENT LEGISLATIVE PROPOSALS

A number of bills were introduced in the Ninety-second Congress designed to provide guidelines concerning the amount and nature of lobbying activities which could be carried on by certain charities.[22] The three proposals which appeared to generate the most support were a bill introduced by Senator Muskie in March, 1971 (hereinafter the "Muskie bill"), a bill introduced jointly by Senators Muskie and Scott in January, 1972 (hereinafter the "Muskie-Scott bill"), and a bill introduced by Representative Ullman and others in March, 1972 (hereinafter the "Ullman bill"). These bills will be examined separately, and the approaches taken in them will be compared with other approaches suggested in recent legal literature.

On March 30, 1971, Senator Muskie introduced a bill that would revise the Internal Revenue Code to allow organizations de-

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scribed in section 509(a)(1), (2) or (3) (hereafter referred to as "public charities") to engage in certain direct lobbying without fear of losing their tax-exempt status or their qualification to receive deductible contributions. The key provision in this bill is a proposed amendment to section 501. This provision would add to section 501 a new subsection which would provide as follows:

(f) *Appearances, etc., with respect to legislation*—(1) *In general*—In the case of an organization described in section 509(a)(1), (2), or (3), none of the following activities shall be deemed carrying on propaganda, or otherwise attempting, to influence legislation:

(A) appearances before, submission of statements to, or sending communications to, the committees, or individual members, of Congress or of any legislative body of a State, a possession of the United States, or a political subdivision of any of the foregoing with respect to legislation or proposed legislation of direct interest to the organization; or

(B) communication of information between the organization and its members or contributors with respect to legislation or proposed legislation of direct interest to the organization.

(2) *Matters of direct interest*—For purposes of paragraph (1), matters of direct interest to the organization are those directly affecting any purpose for which it is organized and operated.

(3) *Limitation*—Paragraph (1) shall not apply to any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections or referendums.[23]

Corresponding amendments would be made to sections 170(c), 2055, 2106, and 2522—the provisions concerning deductibility of contributions for purposes of the income tax, the estate tax, and the gift tax.

The Muskie bill follows the distinctions set out in section 162(e) by distinguishing between "grass-roots" lobbying (attempting to influence the general public or segments thereof on legislative issues) and direct lobbying and between matters of direct interest to the organization and other matters. Thus, the Muskie bill, like section 162(e), would permit only direct lobbying and only with respect to matters of direct interest to the organization.

On January 24, 1972, Senators Muskie and Scott introduced an amended version of the original Muskie bill.[24] This new bill (the "Muskie Scott bill") is substantially identical to the Muskie bill except that paragraph (3) of the new proposed section 501(f) would provide another limitation on the application of new proposed section 501(f)(1), the provision allowing direct lobbying by public charities. This new limitation is as follows:

"Paragraph (1) shall not apply. . . .

(B) Unless substantially more than one-half of the expenditures of the organization referred to in paragraph (1) are normally devoted to activities other than those described in subparagraphs (A) and (B) of paragraph (1). For purposes of this subparagraph, the term "expenditures" includes only amounts paid or incurred which are substantially related (aside from the need of such organization for funds or the use it makes of the profits derived) to the exercise or performance of the charitable, educational, or other purpose or function constituting the basis for the organizations' exemption under this section (or in the case of an organization described in section 511(a)(2)(B), to the exercise or performance of any purpose or function described in paragraph (3) of section (c)). Nothing in this subsection shall be construed to limit or reduce the level of activities otherwise permitted an organization under paragraph (3) of subsection (c) or any other applicable provision of this title."[25]

In introducing this new amended bill, Senator Muskie, after noting broad bipartisan support in both houses of Congress for the earlier Muskie bill, stated that this new limitation was added to the legislative proposal to alleviate concern "that the original bill might be interpreted to permit a public charity to devote its predominate activities to legislative efforts."[26] Thus, the limitation would allow a public charity to engage in program-related direct lobbying "only if substantially more than one-half of its expenditures are normally in pursuit of its exempt functions other than lobbying."[27] As Senator Muskie notes, provisions of the Code added by the Tax Reform Act interpret "substantially more than one-half" as "65 percent" and "normally" as ordinarily requiring reference to the most recent four-year period of an organization's existence.[28]

The Ullman bill, which also applies only to public charities, deals not only with "program-related direct lobbying," that is, communications with (and appearances before) legislators and legislative bodies concerning matters which directly affect a tax-exempt purpose of a charity and direct communication of information between a charity and one or more of its members concerning such a matter, but also with all other attempts to influence legislation (including all attempts to influence the general public with respect to pending legislation and all other direct lobbying on matters not directly affecting any of the charity's tax-exempt purposes).[29] In effect, the Ullman bill would provide that an organization described in section 509(a)(1), (2), or (3) (other than an organization described in section 509(a)(3) which is a supporting organization of an organization described in section 501(c)(4), (5), or (6)) would not fail to qualify for exemption from taxation as an organization described in section 501(c)(3) so long as the amounts paid for lobbying activities other than program-related direct lobbying do not normally exceed five percent of the total current expenditures for charitable purposes (other than amounts chargeable to capital accounts), and amounts expended for all types of lobbying do not normally exceed 20 percent of the total current expenditures for charitable activities.[30] The term "normally," here, as in the Muskie-Scott bill, is apparently intended to refer to the four most recent taxable years of an organization.

Thus, under this bill, a public charity could spend up to 20 percent of its current expenditures on program-related direct lobbying (so long as it did not engage in any other lobbying). Like the Muskie-Scott bill, the Ullman bill attempts to quantify the amount of program-related direct lobbying that a public charity can perform based on the charity's current expenditures; however, the Ullman bill also quantifies the "substantiality" test for other lobbying based on an expenditures test.

Consistent with the provisions of section 4945, which imposes an excise tax on a private foundation for any attempt to influence legislation, the Ullman bill provides that certain activities relating to legislation are not considered attempts to influence legislation. These activities are as follows: (1) the making available of nonpartisan analysis, study, or research; (2) "the providing of technical advice or assistance to a governmental body or to a committee or other subdivision thereof in response to a written request from such body or subdivision;" and (3) "an appearance before, or communication to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, its tax-exempt status, or the deduction of contributions to such organization."[31]

Like the other bills, the Ullman bill would make corresponding amendments to sections 170, 2055, 2106, and 2522, but it would also make other amendments to these sections which would disallow any deduction for contributions *for the use of* a charity if the contribution is made for the purpose of influencing legislation. This provision would not appear to affect contributions *to* a charity but would disallow deductions for out-of pocket expenses incurred in carrying out a charity's activities if such expenses relate to lobbying activities.

One other novel feature of the Ullman bill is that it would allow a public charity to elect to be treated under the provisions described above or to be treated under the "substantiality" test of existing law. Apparently, it was felt that determining compliance with the expenditure-based tests would require more comprehensive audits for some organizations than are required under present law and that some of these organizations would therefore prefer to be governed by the "substantiality" test.

Policy considerations similar to those which led Congress to enact section 162(e) are applicable to proposed legislation permitting program-related direct lobbying of charities. These policy considerations are as follows: (1) the "substantiality" test of present law is difficult to administer and gives little guidance to charities; (2) it is anomalous that charities can make appearances before, and submissions to, administrative or judicial bodies, but not legislative bodies, with respect to matters affecting their charitable programs; and (3) legislative bodies need information concerning the effect of legislation or proposed legislation on charitable organizations and their programs.[32]

All three of the bills mentioned above are based on a 1969 American Bar Association resolution, reprinted with the Muskie bill in the Congressional Record.[33] Some differences are apparent, however. The ABA resolution, which antedates the Tax Reform Act, would permit only publicly-supported charities, within the meaning of that term under former section 503(b)(3) (repealed by the Tax Reform Act) to engage in program-related direct lobbying, whereas each of the three bills would permit all public charities, whether or not publicly supported, to engage in program-related direct lobbying.[34]

The limitations of the three bills and the ABA resolution on the allowance of direct lobbying to organizations which are in some sense "public" appears to be based on a feeling that it would be "dangerous to give such power to private foundations."[35] For if private foundations could engage in such lobbying, a wealthy individual "could set up a well-endowed private foundation to 'lobby' without limit at the taxpaying public's expense in the legislatures for legislation promoting his pet 'religious, charitable, scientific, literary, or educational' beliefs."[36] Since publicly-supported charities generally are dependent for their support upon, and presumably must be responsive to, fairly substantial segments of the general public, there is not as serious a danger of such abuse where the charity is publicly supported.[37]

Nevertheless, the bills appear to apply to a more appropriate class of organizations than does the ABA resolution. Allowance of program-related direct lobbying for only publicly-supported organizations fails to recognize a fundamental proposition of the Tax Reform Act—that an organization will be treated as responsive to a broad public interest because of the nature of its control or operation, as well as because of the nature of those who support it.[38] Consequently consistent with this proposition, the appropriate dividing line is that any organization which qualifies as a "public charity" should be able to engage in program-related direct lobbying.

Another difference between the Muskie bill and the Muskie-Scott bill on the one

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hand, and the Ullman bill and the ABA resolution on the other, is that the Ullman bill and ABA resolution would also explicitly allow any charity to engage in direct lobbying with respect to legislation (or proposed legislation) which would affect its tax-exempt status or the deduction of contributions to it under the federal income, estate and gift tax laws.[39] Although neither section 501(c)(3) nor the regulations thereunder indicate that more than an insubstantial amount of activity with respect to such matters may be carried on, a good case may be made for the proposition that more than an insubstantial amount of direct lobbying on such matters can be carried on under existing law. Thus, section 4945 explicitly provides that amounts paid or incurred for direct lobbying with respect to proposed legislation affecting a private foundation's existence, its powers and duties, its tax-exempt status, or the deduction of contributions to the foundation are not taxable expenditures. The report of the Committee on Finance states, with regard to the lobbying provision, that "[e]ssentially, this provision retains the present law provision but removes the 'substantiality' test in determining whether a private foundation has made a taxable expenditure. . . ." [40] However, in the absence of Treasury pronouncements clarifying this matter, it would appear desirable to clarify existing law (as the Ullman bill does) by including in a bill relating to the political activities of charities a provision specifically providing that any charity can engage in "substantial" direct lobbying with respect to proposed legislation concerning its existence, its powers and duties, its tax-exempt status, or the deduction of contributions to it.

The three bills are also quite similar to a proposal made in 1969 by Thomas C. Jorling.[41] The Jorling proposal served as the basis for Senator Cooper's previously discussed, ill-fated, proposed amendment to H.R. 13270 (the bill which became the Tax Reform Act of 1969).[42] The Jorling proposal would permit any section 501(c)(3) organization (including a private foundation) to engage in unlimited direct lobbying on matters of direct interest to the organization. In support of allowing private foundations as well as public charities to engage in program-related direct lobbying, it may be argued that many private foundations have valuable information and expertise which they should be allowed to make available to legislative bodies. However, as noted above, where charities are not of a sufficiently public nature, the potential for abuse by an individual using the organization for private purposes exists.[43] In addition, the Jorling proposal, in allowing private foundations to engage in program-related direct lobbying, is too broad in scope to be consistent with section 4945 which, on the theory that private foundations need substantial restrictions on their programs to insure that they live up to their roles as stewards of public trust,[44] imposes severe sanctions upon program-related lobbying activities of private foundations (unless such lobbying consists of the dissemination of nonpartisan analysis, study, or research, or the furnishing of technical advice or assistance).

Another shortcoming of the Jorling proposal, and the Senate floor amendment based upon it, is that its elimination of the "substantiality" test would absolutely forbid any grassroots lobbying. The proposal's proponents appear to take the position that such a provision is necessary to put charities and trade or business organizations on an equal footing.[45] What they fail to recognize, however, is that for a trade or business organization the penalty for a minimal violation is merely disallowance of the deduction whereas for a charity the penalty for such a violation could be loss of its section 501(c)(3) status. Thus, it appears desirable to retain the "substantiality" test for grassroots lobbying, as the Ullman bill does.[46] However, if this is done and the percentage is even five percent as in the Ullman bill, it could result in the explicit availability of very large sums for grassroots lobbying.[47]

Furthermore, with respect to the Jorling proposal, it is important to note that crucial to the philosphy of the Tax Reform Act is the distinction between private foundations and public charities.[48] The Tax Reform Act recognizes that a private foundation may well be the alter ego of an individual or small group of individuals, and as such might be particularly susceptible to being used to further the personal interests of contributors, whereas public charities, by virtue of their public nature, are subject to sufficient public scrutiny to make such abuses sufficiently unlikely as not to require detailed legislative regulation of their charitable functions or the means by which such functions are achieved.[49] Thus, since the Tax Reform Act indicates that public charities are to be given more leeway than private foundations in implementation of their programs, the philosophy behind the Tax Reform Act is not inconsistent with the liberalization of the rules concerning direct lobbying of public charities despite the references in the Committee reports to Congressional policy against use of tax deductible funds for political purposes.[50] It is debatable, at best, as to whether the same can be said of private foundations.

Opponents of proposals such as the Muskie bill may also argue that allowance of unlimited program related direct lobbying to public charities would result in the advent of ideological organizations, organized and operated primarily to influence legislation, using deductible contributions primarily to achieve legislative goals. This problem may be solved by providing, in the bill or in committee reports, that the provision is not intended to affect that portion of the regulations under section 501(c)(3) which denies exemption to an organization under that section if the organization's "main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation" [51] and it advocates the attainment of such objectives in a partisan manner. This, coupled with the restrictions on grassroots lobbying, should be sufficient to prevent the use of deductible contributions for political agitation while permitting direct lobbying on matters which are related to charitable purposes of public charities.[52]

As previously discussed, this objection could also be met by providing, as the Ullman bill and the Muskie-Scott bill do, that a large percentage of the organization's program-related expenditures must be spent for exempt activities other than lobbying. Whether the requirement that at least 80 percent, or at least 65 percent, of the organization's expenditures be spent for exempt activities other than lobbying is appropriate or should be more (or less) stringent seems like a uniquely appropriate issue for a legislative decision.[53]

However, it appears that allowing up to 20 percent of each charity's current expenditures to be spent for lobbying would result in permitting several billion dollars to be used for lobbying activities.[54] Even if, due to the budget constraints and other programs of charities, only one tenth of such a maximum estimated amount were so used, it would result in more than a half billion dollars per year being used for the program-related direct lobbying of public charities. Such an amount might well have very significant effects on the legislative process.

In addition, if an organization with a large budget, such as a university, became interested in certain legislation affecting one of its exempt purposes and had funds available, the organization could spend large sums in direct lobbying for such legislation. Thus, it has been suggested that determining how much legislative activity a public charity can engage in solely by reference to a test based upon the percentage of current expenditures used for such activities is inappropriate.[55] Apparently it is felt that whether legislative activity is impermissibly "substantial" should be determined on all the facts and circumstances of each case, with factors such as the total amount expended, the use of registered lobbyists, and the type of lobbying engaged in (for example, differentiating appearances at public hearings from private meetings with legislators) being considered as well as the percentage of total current expenditures used for legislative activities.[56]

The major problem with such an approach is that the complexity would lead to great uncertainty—exactly the difficulty with present law. Also, while allowing only appearances at public hearings and communications with legislative bodies incident to such hearings would eliminate the complexity of a "facts and circumstances" test, such a limitation appears to be generally regarded as too restrictive.[57]

Another exception which might be taken to determining the permissible amount of program-related direct lobbying by reference to expenditures is that an organization's expenditure pattern does not accurately reflect its pattern of activities. The Ullman bill's prohibition against the deduction of contributions for the use of an organization if such contributions are made for the purpose of influencing legislation is apparently designed to insure that an organization's expenditure pattern more closely reflects the pattern of its activity.

As was noted at the public hearings on the Ullman bill, allowing public charities to engage in program-related direct lobbying with respect to legislation where there is no competing business interest can not be justified by the "balancing" argument.[58] However, such lobbying can be justified as representing the communication of information to legislatures (presumably a desirable goal even in the absence of competing business interests and even if charitable organizations have conflicting viewpoints).

Another criticism of the Ullman bill, which is also applicable to the other bills, is that there is a substantial problem in deciding who is a member of a charitable organization, since the term "member" has different meanings for different types of organizations and under differing state laws.[59] In particular, there are substantial problems created by parent or national organizations which have subsidiaries or local affiliates since "the membership of some large parent organizations may encompass a large segment of the entire population, and communications to such memberships may assume the proportions of grassroots lobbying." [60] However, this problem could probably be alleviated, at least to some extent, by a restrictive interpretation of the term "direct communication of information" between a public charity and its members. Also a restrictive definition of the term "members" might restrict the use of the "communication with members" provision to a degree sufficient to prevent its use for grassroots lobbying.

A problem common to all three bills and to the legislative proposals discussed above is providing appropriate subject limitations for lobbying. Under section 162(e), lobbying by businesses is limited to matters of direct interest to the taxpayers, and the regulations provide that "[l]egislation or proposed legislation is of direct interest to a taxpayer if the legislation or proposed legislation is of such a nature that it will, or may reasonably be expected to, affect the trade or business of the taxpayer." [61] When coupled with the natural limitations imposed by a profit motive, this limitation as interpreted in the regulations is probably sufficently definite to place reasonable limits on business lobbying

which can be administered with relative ease.

All the bills and proposals discussed above allow lobbying by a charity only with respect to matters of direct interest to such charity. Other than stating that "matters of direct interest to an organization are those directly affecting any purpose for which it is organized and operated," neither the Ullman bill, the Muskie-Scott bill nor the Muskie bill give any meaningful guidelines as to limitations on the subject matter of lobbying by charities. Since the articles setting forth the purposes for which charities are operated are generally very broad in scope, it would appear that this test might impose little, if any, limitation on lobbying by charities.

Jorling states that "a new set of criteria will necessarily have to be established to define the appropriate nexus between any given legislation and the nonprofit organization's purpose."[62] However, his only suggestion to limit the allowable subject matter concerning which a public charity may lobby is to require that the charity state the subject matter with respect to which it wishes to lobby to the Internal Revenue Service (in its exemption application or at a later time) so that the Service could make a determination of consistency between the exempt purpose and the legislative interest.[63] If this requirement of consistency with the exempt purpose of the organization were coupled with a requirement that the lobbying be conducted only in furtherance of an exempt purpose which forms a substantial portion of the organization's exempt activities (other than lobbying), it would seem that a reasonable, meaningful restriction on the amount and nature of direct lobbying by public charities could be achieved without unduly restricting the flow of information on proposed legislation to legislatures.

CONCLUSION

In short, it appears to be desirable to treat direct lobbying expenses of nonbusiness interests and those of business interests more equally. The Ullman bill appears to accomplish this goal in a reasonable manned by providing that a public charity can engage in direct lobbying with respect to matters of direct interest to its charitable program without losing its exemption under section 501 (c) (3) or its qualification to receive deductible contributions, so long as no more than 20 percent of the organization's current expenditures for its charitable purposes are expended for lobbying activities.

The limitation of the provisions of the bill to public charities appears to be reasonable because the distinction between personal expenditures on the one hand and business and charitable purposes on the other is important in the field of lobbying expenditures. The public nature of public charities should give reasonable assurance that a broad public interest, rather than a narrow personal interest, is being served by the direct lobbying expenditures of public charities. On the other hand, such assurance is not provided in the case of such expenditures by private foundations.

Nevertheless, while the approach of the Ullman bill appears basically sound, it appears that further consideration needs to be given to the appropriate allowable expenditure percentage for program-related direct lobbying to insure that such lobbying is incident to the accomplishment of otherwise charitable purposes. It also appears that further limitations should be imposed on the scope of the "communicating with members" activities, and that reconsideration should be given to quantifying the "substantiality" test with respect to grassroots lobbying.

FOOTNOTES

[1] Section 501(c) (3) provides that organizations may qualify for tax-exempt status under section 501(a) if such organizations are:

Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

Thus, under this standard, any substantial amount of activity which is directed toward influencing legislation is grounds for loss of exemption under section 501(c) (3). Loss of status as an organization described in section 501(c) (3) is especially important because, except for organizations which are organized and operated for testing for public safety (not covered in the section 170(c) (2) provisions governing deductible contributions) organizations described in section 501 (c) (3) are also qualified to receive tax-deductible contributions under sections 170(c) (2), 2055, 2106, and 2522. Although these "deductible contributions" sections do not state that an organization must be described in section 501(c) (3), they essentially track the requirements of that section, and sections 170(c) (2), 2055(a), 2106(a) and 2522 (a) explicitly provide that, to the deductible, a contribution must be to an organization "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation." Of course, a charity's exemption and its qualification to receive deductible contributions will not be challenged because of political activities unless the Internal Revenue Service, in its audit processes, makes a determination that such charity has engaged in "substantial" political activities. Consequently, loss of exemption and of qualification to receive deductible contributions appear to be sanctions which are particularly susceptible of subjective application. *See*, S. REP. No. 91–552, 81st Cong., 1st. Sess. 47 (1969); authorities cited note 5 *infra*.

[2] I.R.C. § 162(e), as added by the Revenue Act of 1962, Pub. L. 87–834.

[3] *Id.*

[4] I.R.C. §§ 170(c) (2) and 501(c) (3). The activities that caused the Sierra Club's loss of tax-exempt status under section 501(c) (3) included direct lobbying as well as the more highly publicized grassroots lobbying. Letter Ruling, 6P-H 1967 Fed. Tax Serv. ¶ 54664; Note, *The Sierra Club; Political Activity, and Tax Exempt Charitable Status*, 55 GEO. L.J. 1128, 1131 (1967). *See* section 4945, Treas. Reg. § 1.501(c) (3)–1(c) (3) (iv) (b), and Treas. Reg. § 53.4945–2(d) (1), for the proposition that the making available of the results of nonpartisan analysis, study and research to legislative bodies or members thereof does not violate the restrictions against direct lobbying.

[5] *Hearings on the Subject of Tax Reform Before the House Comm. on Ways and Means*, 91st Cong., 1st Sess. 815–16, 911–14 (1969); *Hearings on H.R. 13270 Before the Senate Comm. on Finance*, 91st Cong., 1st Sess., Parts 5 and 6 (1969); Note, *Political Activity and Tax Exempt Organizations Before and After the Tax Reform Act of 1969*, 38 GEO. WASH. L. REV. 1114, 1125–26, 1131 (1970).

[6] The regulations under section 501(c) (3) give no guidance as to what constitutes "nonpartisan analysis, study or research," nor do these regulations explicitly state that the results of nonpartisan analysis, study or research may be made available to legislators or legislative bodies when legislation is pending. Treas. Reg. § 1.501(c) (3)–1(c) (3) (ii) and (iv). The regulations under section 4945 do explicitly provide that the furnishing of the results of nonpartisan analysis, study or research to legislative bodies does not constitute taxable direct lobbying for private foundations. These regulations also attempt to define "nonpartisan analysis, study, or research." Treas. Reg. § 53.4945–2(d) (1). However, the comments to the proposed regulations under section 4945, see Proposed Treas. Reg. § 53.4945–2(d) (i) (March 20, 1971), indicate that private foundations have had considerable difficulty with the portion of the proposed regulations relating to "nonpartisan analysis, study, or research." In particular, the commenting foundations appear to have a great deal of difficulty interpreting the examples. *See, e.g.*, Letter to Commissioner Thrower from Lawyers' Committee for Civil Rights Under Law, April 19, 1971; Letter to Treasury Department Personnel from Foundation Lawyers Group, problems 2–10 through 2–12, June 10, 1971. Although these provisions have been revised, and the examples completely rewritten, in the final regulations, it still appears that there may well be difficulty in determining the scope of "nonpartisan analysis, study or research."

[7] 116 CONG. REC. 4069 (daily ed. March 30, 1971) (statement of Senator Muskie); Note, *supra* note 5, at 1135–36. It should be noted that the restrictions of the substantiality test appear to "be so vague as to encourage subjective applications of the sanctions." S. REP. No. 91–552, 91st Cong., 1st Sess. 47 (1969). Thus, for example, the Sierra Club investigation appears to have been triggered by a relatively insubstantial expenditure without which it appears unlikely that the investigation would have been undertaken. *See, e.g.*, Note, *supra* note 5, at 1121–1125, 1135 and the authorities cited therein. In the matter involving the Sierra Club, the Internal Revenue Service, as a first step in its inquiry into the exempt status of the Club, withdrew advance assurance of deductibility for contributions to the Club. IRS News Release No. 829 (June 13, 1966), *reprinted in* 7 CCH STAND. FED. TAX REP. ¶ 6607, at 71, 601.

[8] S. REP. No. 1881, 87th Cong., 2d Sess. 22–23 (1962); H.R REP. No. 1447, 87th Cong., 2d Sess. 17 (1962); Jorling, *Information, the Tax Law, and the Legislative Process*, 48 ORE. L. REV. 227, 231 (1969).

[9] Andrews, *Foundations and the Law—A Forward*, (13 U.C.L.A. Law REV. 933 (1966); Note, *supra* note 4, at 1133 and n. 29; authorities cited note 5 *supra*.

[10] Jorling, *supra* note 8, at 230.

[11] S. REP. No. 1881, 87th Cong., 2d Sess. 414–17 (1962) (Supplemental and Minority Views of Senators Douglas and Gore); 116 CONG. REC. 4070 (daily ed. March 30, 1971) (statement of Senator Muskie); 115 CONG. REC. 29426 (1969) (statement of Senator Cooper); Jorling, *supra* note 8, at 232.

[12] *See* Liles, *A New Look at "Ordinary and Necessary" Business Expenses ("Lobbying and T & E")*, N.Y.U. 21ST ANN. INST. ON FED. TAX 1165, 1166–1173 (1963) and the authorities cited therein at nn. 3–6 and 18.

[13] Liles, *supra* note 12, at 1168 and the authorities cited therein at n. 10.

[14] Cammarano v. United States, 358 U.S. 498 (1959); Textile Mills Security Corp. v. Comm'r, 314 U.S. 326 (1941); Sunset Scavenger Co. v. Comm'r, 84 F.2d 453 (9th Cir. 1936); Liles, *supra* note 12, at 1168–1170.

[15] The provision forbidding exempt charities from engaging in lobbying was originally enacted in 1934. Revenue Act of 1934, ch. 277, § 23(a), 48 Stat. 690. Somewhat similar provisions had been found in the regulations since 1919. Treas. Reg. 45, art. 517 (1919), in T.D. 2831, 21 Treas. Decs. Int. Rev. 285 (1920).

[16] *See* notes 2–3 and 8 *supra* and accompanying text.

[17] *See* note 6 *supra*. *See also Section of Taxation, Council and Committee Recommendations*, 21 TAX LAWYER 915, 969 (1968).

[18] See, *e.g.*, S. REP. No. 91–552, 91st Cong., 1st Sess. 25–26 (1969); Sugarman, *The Line Between Education and Propaganda*, N.Y.U. 3D CONF. ON CHARITABLE FOUNDATIONS 173, 181 (1957).

[19] *See* note 5 *supra*.

[20] This amendment was introduced on October 3, 1969 (115 CONG. REC. 28327 (1969)) and was explained on October 9, 1969 (115 CONG. REC. 29426 (1969)) but was never called up for consideration. It was based on a proposal in Jorling, *supra* note 8, at 233–36.

[21] I.R.C. § 4945, as added by the Tax Reform Act of 1969 (Pub. L. No. 91–172). Hereafter the Tax Reform Act of 1969 will be referred to as the "Tax Reform Act."

[22] In addition to the bills discussed herein, these bills included H.R. 9691, 92d Cong., 1st Sess. (1971); H.R. 9988, 92d Cong., 1st Sess. (1971); and a number of bills which are identical to the Ullman bill (and which are listed in *Hearings on Legislative Activity by Certain Types of Exempt Organizations Before the Comm. on Ways and Means*, 92d Cong., 2d. Sess. 1 (1972) [hereinafter *"Hearings on Legislative Activity"*].

[23] S. 1408, 92d Cong., 1st Sess. (1971), reprinted at 117 CONG. REC. 4070 (daily ed. March 30, 1971).

[24] S. 3063, 92d Cong., 2d Sess. (1972), reprinted at 118 CONG. REC. 287 (daily ed. January 24, 1972).

[25] *Id.*

[26] 118 CONG. REC. 287 (daily ed. January 24, 1972).

[27] *Id.*

[28] *Id.*

[29] H.R. 13720, 92d Cong., 2d Sess. (1972), reprinted in *Hearings on Legislative Activity* 2–4.

[30] *Id.*

[31] *Id.*

[32] 117 CONG. REC. 4069 (daily ed. March 30, 1971); *Council and Committee Recommendations, supra* note 17, at 969.

[33] 117 CONG. REC. 4070 (daily ed. March 30, 1971). The American Bar Association resolution is reprinted and discussed in *Council and Committee Recommendations, supra* note 17, at 967–72.

[34] Although by its terms the ABA resolution would apply only to organizations described in former section 503(b)(3) (and thus also described in section 170(b)(1)(A)(vi)), it would probably also apply to most religious and educational organizations described in former section 503(b)(1) and (2) (and in section 170(b)(1)(A)(i) and (ii)) since most of these organizations should be able to qualify as "publicly supported."

[35] *Council and Committee Recommendations, supra* note 17, at 971.

[36] *Id.*

[37] *Id.*

[38] *See* I.R.C. §509; S. REP. No. 91–552, 91st Cong., 1st Sess. 56–59 (1969). In particular it should be noted that under section 509(a)(3) organizations do not have to be publicly supported to qualify as public charities if they are operated, supervised, or controlled by one or more section 509(a)(1) or (2) organizations

[39] 117 CONG. REC. 4070 (daily ed' March 30, 1971).

[40] S. REP. No. 91–552, 91st Cong., 1st Sess. 48 (1969).

[41] Jorling, *supra* note 8, at 233–36.

[42] 115 CONG. REC. 29426–27 (1969).

[43] *See* text accompanying notes 35–37, *supra*.

[44] S. REP. No. 91–552, 91st Cong., 1st Sess. 48 (1969).

[45] Jorling, *supra* note 8, at 234.

[46] Although a taxable organization cannot get a deduction for grassroots lobbying under section 162(e), it may be able to deduct certain expenses for grassroots lobbying under the guise of institutional advertising, provided the advertising message is not too flagrant. Thus, for example, although somewhat muted in tone, the advertisements for the automobile manufacturers relating to their efforts to increase automobile safety might be considered grassroots lobbying with the intent to influence the general public with respect to existing and proposed legislation concerning automobile safety standards. Denial of deductions for expenses of these advertisements, which give only the automobile manufacturers' side of the automobile safety issue, is probably not a realistic expectation. Conversely, except for an insubstantial amount of grassroots lobbying, any information that a public charity makes available to the general public, or a segment thereof, with respect to pending or existing legislative issues, must be sufficiently impartial to qualify as the results of nonpartisan analysis, study or research, or sufficiently general to qualify as the examination of broad social economic or similar issues. *Cf.* paragraphs (b), (d)(1), and (d)(4) of Treas. Reg. § 53.4945–2. *See* text accompanying nn. 39–40 for a discussion of the applicability of the principles contained in section 4945 and the regulations thereunder to issues concerning lobbying activities under section 501(c)(3). Thus, even with the "substantiality" test it appears that a charity may well be at a disadvantage in engaging in grassroots lobbying, as well as in engaging in direct lobbying, when compared to a taxable organization.

[47] *Hearings on Legislative Activity, supra,* note 22, at 8–9 (Statement of Honorable Edwin S. Cohen, Assistant Secretary of the Treasury).

[48] *See* note 38 *supra.*

[49] *See* Tax Reform Act of 1969 § 101, Pub. L. 91–172 (adding sections 507–509 and 4940–4948 to the Code). *See also* S. REP. No. 91–552, 91st Cong., 1st Sess. 25–27, 28–34, 38–51, 56–59 (1969).

[50] S. REP. No. 91–552, 91st Cong., 1st Sess. 47 (1969).

[51] Treas. Reg. § 1.501(c)(3)–1(c)(3)(iv).

[52] This seems to be in accord with the views of Judge Learned Hand in the leading case of Slee v. Comm'r, 42 F.2d 184 (2d Cir. 1930). In this case Judge Learned Hand states that:

Political agitation as such is outside the statute, however innocent the aim . . . . [However] there are many charitable, literary and scientific ventures that as an incident to their success require changes in the law. A charity may need a special charter allowing it to receive larger gifts than the general laws allow. It would be strained to say that for this reason it became less exclusively charitable, though much might have to be done to convince legislators. A society to prevent cruelty to children, or animals, needs the positive support of law to accomplish its ends. It must have power to coerce parents and owners, and it does not lose its character when it seeks to strengthen its arm. A state university is constantly trying to get appropriations from the legislature; for all that, it seems to us still an exclusively educational institution . . . . All such activities are mediate to the primary purpose, and would not, we should think, unclass the promotors. The agitation is ancillary to the end in chief, which remains the exclusive purpose of the association. 42 F.2d at 185.

[53] At the public hearings on the Ullman bill, Assistant Secretary of the Treasury EDWIN S. COHEN estimated that the percentage limits proposed by the Ullman bill would permit public charities to spend as much as $6 billion on lobbying of which $1.5 billion could be spent on grassroots lobbying. *Hearings on Legislative Activity, supra,* note 22, at 8.

[54] *Id.*

[55] *Id.* at 12–13, 16.

[56] *Id.*

[57] *Id.* at 11 (Mr. Ullman), 76 (Stanley S. Weithorn).

[58] *Id.* at 7 (Mr. Cohen).

[59] *Id.* at 9.

[60] *Id.*

[61] Treas. Reg. § 1.162-20(c)(2)(ii)(b)(1)(i).

[62] Jorling, *supra* note 8, at 234.

[63] *Id.* at 235.

LYNDON BAINES JOHNSON

Mr. JOHNSTON. Mr. President, I am pleased to have the opportunity to join Senators in paying tribute to a great American, Lyndon Baines Johnson.

Mrs. Johnston and I extend our deepest sympathy and condolences to Mrs. Johnson and to the Johnson daughters and their families. Throughout the sad events of the past week the Johnson women were pillars of strength and composure, and our hearts go out to them.

Although I did not have the opportunity to serve with him in Washington, I feel with all Americans the great sense of shock and sadness over the death of President Johnson. His unexpected passing leaves a void in the affairs of a Nation which he loved deeply and to which he dedicated a lifetime of service.

Throughout his tenure as majority leader and the 5 tumultuous years of his Presidency, I followed his career with respect and awe—respect for his forthright stands and the office he held; awe of his political acumen and his successes in the Congress.

The Johnson administration provided the leadership and impetus for Congress to enact into law ideas and social programs that had been discussed since the New Deal. Domestic legislation of the Great Society encompassed assistance for the underprivileged, the black, the aged, the Mexican-American, the American Indian and all Americans denied their just share of this affluent society.

His programs included medical protection for the elderly and poor, expanded Federal aid to education, and the eradication of all barriers to the voting booth. The Johnson administration offered the Congress approximately 200 major measures and almost 90 percent of them passed. This body of law touches all Americans in every walk of life.

He brought to the highest office in the land experience without precedent, compassion without parallel, and energy that knew no bounds. He did indeed sometimes seem larger than life, and he had seen more of life than most. Those of us who shared a somewhat common heritage as neighbors and fellow southerners draw special pride from President Johnson's untiring efforts to build a better America.

However, history finally assesses the actions of his Presidency. Lyndon Johnson's countrymen should always be grateful for the strength that enabled him to impart to America a strong sense of continuity and national purpose in the dark days following the tragedy that elevated him to the White House in 1963.

Lyndon Johnson spent his life in service to his fellow man. From his early years as a schoolteacher through his post-presidential years as elder statesman, he worked to help humanity, to correct those injustices that he saw in the world about him. Few men were as aptly suited for this task as Lyndon Baines Johnson, and history will note that few men have ever met the task so well.

SENATOR HUGHES' REMARKS BEFORE THE NATIONAL PRESS CLUB

Mr. WILLIAMS. Mr. President, last Friday, the Senator from Iowa (Mr. HUGHES) spoke before the National Press Club on a subject that has long been to him a matter of deep personal concern—the fight against alcoholism in the United States.

Senator HUGHES spoke brilliantly of the problems of alcoholism and the urgent need for care and treatment of the estimated 9 million alcoholics in this country. He again reiterated the necessity for a total national commitment in rehabilitating these citizens and ultimately preventing this grave health problem.

As chairman of the Subcommittee on Alcoholism and Narcotics, Senator HUGHES has actively and effectively initiated programs to combat this disease through Federal legislation. But to find solutions to this social problem and to cure the ills of this disease, the support of all Americans is vital. As Senator HUGHES noted in his remarks, "the key words are understanding, compassion, forgiveness, faith."

I ask unanimous consent to have printed in the RECORD the remarks of Senator HUGHES, because they clearly illustrate his compassion and understanding of this national problem.

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

ALCOHOLISM IN AMERICA—THE FIGHT THAT CAN BE WON

Alcoholism is a microcosm of the social diseases afflicting the United States in the wake of the Vietnam war and the other turmoils of the past decade.

What we do as a nation about alcoholism is, in my judgment, a clue to what we will do about our decaying cities, our depressed rural areas, the central problems of racial discrimination, poverty, substandard housing and inadequate health care.

Our response at this point in history to this ancient blight can either be a tolling bell of despair or a beacon of hope.

The glorious truth about the disease of alcoholism is that it is treatable, controllable. We know this from experience. The empirical facts are on the record.

Perhaps we have talked too long—and I am as guilty as anyone else—about *solving* the problem.

There are no neat, final solutions to this or any other of the great social problems facing our nation.

Yet there are known ways to go, proven actions that can be taken to arrest a growing trend so that it will no longer be a major threat to the health and well-being of a great people.

Government, community and industrial programs are an indispensable need in coping with what Dr. Roger Egeberg once called "the nation's number one health problem."

We have come a long way with these programs but realistically there has never been adequate funding or sufficient public support—by a country mile.

Moreover, we have, I think, relied too heavily on the programmatic approach as a convenient way of getting a difficult and nasty problem out of our own sight and mind.

The most urgent need is for basic changes in public *attitudes*—the same changes, as I see it, that will spell the difference between our success or failure in healing the wounds and divisions that have resulted from the impact of the war and the profound domestic tensions we have experienced in the past ten years.

The key words are understanding, compassion, forgiveness, faith.

Faith? Yes, faith. Not a vague, passive acceptance that the problem will go away if we are patient and ignore it, but a realistic, working faith that we will deal effectively with our national malaises—for the simple reason that we are a great people and must deal with them to survive.

We are not the first generation faced with problems that seems beyond solution; nor will we be the last. But mankind somehow moves along, either by the inch or by spurts of advancement, and the prophecies of armageddon never quite materialize.

The changing of deeply rooted public attitudes is admittedly the most difficult objective of all problem areas for us because we are dealing here with "soft goods"—the subtleties and contradictions of the human mind and spirit—and the American genius has been most notably demonstrated in science, technology, and organization—"hard goods."

I want to discuss with you some of these attitudes I so deeply believe need to be changed, but first I would like to issue some disclaimers to clear the atmosphere.

I do not address this subject as an "expert" on alcoholism. There are "experts" perhaps in certain phases of the subject—medical people, for example, and few of those I regret to say. The only expertise on the over-all problem resides, as I see it, in people who care a great deal and who have the patience, the understanding, and the commitment to devote great parts of their lives, or all of their lives, to the prevention of alcoholism and the treatment and rehabilitation of alcoholic patients.

The composite portrait of the alcoholic in America cuts through every stratum of our society. It is not confined to the skid-row bum, but includes the best and the brightest, the poor and the affluent, the young and the old, business and professional people, and housewives who drink themselves into forgetfulness behind the closed blinds of their own homes.

Like many others who have traveled the same route, I have a special compassion for these people and their families because I am myself an alcoholic—a *recovered* alcoholic, not a reformed alcoholic who pulled himself up by the resources of his own will and morality, but a man with a serious illness who recovered from it because there were people in the world who cared and understood and were willing to help.

The problem of each of these estimated 9 million alcoholics in this country—and I believe the figure to be far short of the real total—is mine as well as theirs—and you share it too.

Once we comprehend this, we are on our way to transforming our national effort to deal with the disease into a steady march of advancement—slow, perhaps and sporadic, but nonetheless forward—rather than the delaying action we are now half-heartedly conducting, or the Dunkirk that could conceivably come to pass.

In developing treatment modalities for some of the newer forms of drug abuse, we are still in highly experimental stages, dealing with problems that are yet in the area of the unknown.

But we know a great deal about the treatment of alcoholism; we know that sound programs of alcoholism treatment, rehabilitation and prevention in the public sector and in private industry will pay huge dividends in the recovery of human lives and in vast economic savings.

We know, for example, that there is no single approach, no easy, yard-goods way to treat and control the disease. Some impassioned advocates of special treatment methods will disagree with me. (We can get as doctrinaire in this field as any other. Some of my older recovered friends are among the worst bigots when it comes to kids who have experimented with pot.) But most of the recognized people working with alcoholism have found that different approaches are required for different kinds of people.

As the Nixon Administration goes about its unilateral reorganization of the federal bureaucracy, I am frankly concerned about the possibility that it will consolidate and homogenize treatment programs for alcoholism and other forms of drug abuse. In seeking efficiency and reduced costs, we could end up with ineffective programs which, in turn, would cost society a bundle, whatever economies the Office of Management and Budget might proclaim.

Let me suggest, in brief terms, some of the attitudes that need to be changed if we are to deal with alcoholism more effectively—and that quite clearly *can* be changed if we set our minds to the task.

The medical profession, enlightened citizens throughout the land, and the Supreme Court have recognized that alcoholism is a disease.

Joe Doaks and his wife recognize that alcoholism is a disease. But when it comes to the case of Cousin Harry who gets drunk periodically, loses his job, and borrows money from them, they are convinced that this is because Harry is a weak-willed, parasitic bum, certainly not an alcoholic.

Despite the enlightenment of recent years, the general public and a big proportion of public officials are still more preoccupied with punishing than with curing.

If we have learned anything from the past, it should be that we will make no inroads against alcoholism and other forms of drug abuse until we get at the source of the problem—the addiction itself. You don't solve anything in a lasting way by putting sick people in jail.

But to a large degree, we continue to proceed with drug control as if motivated by a societal death wish—as if we had no capacity whatsoever to learn from the mistake of the past.

As a society, we are guilt-ridden and uneasy ourselves; our reflex is to look for someone on whom to lay the blame.

But the guilt syndrome only confuses and compounds the problem in various ways. It drives alcoholics, already overburdened by their own guilt-feelings ever deeper into their addiction. It drives society—the public, the courts and the enforcement officials—back into the treadmill of methods that have dismally failed.

Alcoholism presents unique problems in the drug abuse field in that alcohol is legal, socially accepted, and the drug of preference of some 95 million Americans.

Don't read me wrong. No national experiment has ever failed more dismally than the Volstead Act.

But it is high time that the Amalgamated Association of Drinkers who are not alcoholics did a little self-analysis about their role in the promotion of this form of drug abuse that causes more deaths, human misery and economic loss than all other forms of drug abuse combined.

At the fashionable cocktail party or the village pub, the entertaining drunk, the life of the party may be hell-bent on his way to gradual or precipitate suicide. And the genial host, so generous with the scotch, may rank as one of the town's leading pushers.

Alcoholic beverages have been around from time immemorial. I do not mean to be critical of those whose physical and emotional systems can handle it. I happen to be

one of those millions of people in all walks of life whose chemistry cannot adjust. What I am asking is simply that those who can drink in moderation without ill effects be more sensible, solicitous and forgiving towards those who can't.

I have criss-crossed this country for many years trying to change attitudes and mobilize public support for proven, sensible programs for alleviating the inestimable human and economic loss of this serious and rapidly growing national health problem.

My message is no jeremiad of despair or defeat. We have the resources and know-know to succeed beyond anyone's expectations. And if you are concerned, as many public leaders are, with raising the quality of living in America, this is one hell of a place to start.

We have trainloads of statistics and case histories to back up our case. But how do you awaken the people? I have tried the economic route. It is estimated by the Department of Health, Education, and Welfare that alcohol abuse and alcoholism drain the economy of an estimated $15 billion per year.

GAO surveys, conducted at my request, revealed that the installation of sound programs of treatment, rehabilitation and prevention would save $135 to $280 million among civilian employees of the federal government and $120 million in the armed services.

The relatively few American industries that have pioneered with acoholism programs have registered a success rate of more than 60% in the recovery of afflicted personnel.

A couple of months ago, in a speech in San Diego, I challenged the American business and industrial community to invest $40 million in employee alcoholism programs in order to recover a salvageable $4 billion that is now going down the drain needlessly every year.

We are making progress—encouraging programs in some of the departments of government and an increasing number of private industries. But the potential has been barely tapped.

Obviously, more important than any economic consideration is the human quotient—the wasted lives, the ruined careers, the untold misery to families of alcoholics, the appalling damage to society in crimes and highway fatalities in which alcoholism was a contributing factor.

In our concept of an alcoholic, we too often confine our vision to the staggering inebriate, the patient whose symptoms are acute and publicly visible. This concept loses sight of the invisible victims, the persons whose alcoholism is not recognized but whose talents and potential for a rewarding life are thwarted by one of the most insidious afflictions known to the human race.

For these thwarted people, for all other victims of alcoholism, and for the rest of society that suffers inestimable damage and loss, there is hope.

We have the knowledge of what must be done; we simply need the public determination to do it.

If we were dealing with a bacteriological disease instead of a chemical addiction, we would have proclaimed a national emergency and put the problem under control in short order. There is no reason that we cannot succeed with alcoholism as we succeeded with polio and tuberculosis.

The beginning is not in Washington, the 100 statehouses, or the city halls, but within each of us as a concerned citizen and a compassionate human being.

The basic premises from which we must start are first, that we believe in the value of every human life; and second that most alcoholic patients—not all, but most—can be successfully treated and their addiction controlled.

As I suggested in the beginning, I am convinced that when we mount an effective national campaign to control alcoholism and alcohol abuse in the United States, we will provide a template for getting at other major social problems in this country that are now thought by many to be beyond remedy.

CURTAILMENT OF ARMS RACE

Mr. MUSKIE. Mr. President, in recent weeks I have voiced doubt on several occasions about the commitment of the second Nixon administration to curtail further the arms race. On Monday of this week, the administration released its proposed budget for fiscal year 1974. If accepted by Congress, this budget would have the Arms Control and Disarmament Agency lose one-third of its operating funds next year—a cut from $9.9 million to $6.7 million. Yesterday, the White House announced that the resumption of SALT II has been delayed from February 27 until March 12. Today, there is a report that the Nixon administration is taking steps to concentrate all phases of disarmament policy in the White House.

All these developments are deplorable. If there is to be a change in America's arms control policies, if there is to be a dismemberment of the Arms Control Agency as we know it, if there is to be a concentration in the White House of arms control policymaking, the President has an obligation to tell us. If the President is so intent on making things perfectly clear, let us all hope he does so soon in the arms control field.

I ask unanimous consent that an article from today's Washington Evening Star-News be printed in the RECORD.

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

[From the Washington Evening Star and News, Jan. 31, 1973]

WHITE HOUSE MOVES IN—ARMS CONTROL UNIT BYPASSED

(By Oswald Johnston)

As the strategic arm limitation talks with the Soviet Union enter a new and crucial phase, the Nixon administration is taking steps to concentrate all phases of disarmament policy in the White House.

In a series of moves culminating in this week's budget, the Arms Control and Disarmament Agency has been stripped of many of its resources and much of its authority to do its job.

The budget announced Monday shows that ACADA, a semi-autonomous agency housed in the State Department, would lose a third of its operating funds next year—a cut from $10 million to $6.7 million.

Much of the cutback, it is understood, is in the agency's research budget. It used to let out contracts for up to $2 million a year. Next year, the research fund will be only $500,000.

WHITE HOUSE PROJECT

At the same time, informed sources disclosed that the White House itself has quietly let out a research contract on disarmament to a former president of the Hudson Institute who is an outspoken opponent of last summer's arms-control agreements with the Russians.

The researcher is Dr. Donald G. Brennan, a strategic arms specialist who testified in Congress against the agreement to curb an anti-ballistic missile and against its interim five-year freeze on offensive nuclear weapons. Brennan has been engaged by Henry A. Kissinger's foreign policy apparatus in the White House, the National Security Council, to assess the political impact of the arms agreement on American allies in Western Europe.

SYMPTOMS OF MISTRUST

These developments are only the most recent symptoms of a mistrust in the White House of ACDA professionals that has been apparent since the first arms-control agreement were concluded in Moscow last May.

One arms expert close to the administration viewpoint explained it this way: "The principle at stake is whether the responsibility of negotiating these arm treaties should be in the hands of an interested agency—one whose mission is to promote arms control."

Kissinger himself moved publicly to take over from ACDA in Moscow last May, when he took charge of a press briefing scheduled to explain the details of the treaty and left Gerard C. Smith, the ACDA head and chief negotiator during two-and-a-half years of talks, standing in the background.

Smith's sudden relegation to the shadows has been cited by sources close to ACDA as a factor in his decision Jan. 3 to resign from the agency.

ACDA, has remained without a chief since. But a new chief negotiator to SALT was quickly named in an evident move to keep the SALT negotiating team separate from the arms control experts.

The new chief negotiator is U. Alexis Johnson, the former undersecretary of state, who has also been designated ambassador-at-large in President Nixon's second term.

The White House announced yesterday that the next round of SALT negotiations with the Soviets will begin March 12.

Johnson has been characterized as much more receptive to hard-line Pentagon views on arms control than any of the ACDA professionals.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the hour of 2 p.m. having arrived, the Senate will now go into executive session to consider the nomination of Peter J. Brennan, of New York, to be Secretary of Labor.

Time for debate on this nomination will be limited to 1 hour, to be equally divided and controlled by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS).

The vote on the nomination will occur at 3 p.m. today.

The nomination on the executive calendar will be stated.

DEPARTMENT OF LABOR

The assistant legislative clerk read the nomination of Peter J. Brennan, of New York, to be Secretary of Labor.

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

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

PRIVILEGE OF THE FLOOR

Mr. JAVITS. Mr. President, I ask unanimous consent that a professional staff member of the Labor and Public Welfare Committee, Mr. Eugene Mittleman, be allowed the privilege of the floor in connection with this debate.

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

Mr. JAVITS. Mr. President, I have been authorized by the Committee on Labor and Public Welfare, which unanimously recommended this nomination to the Senate, to report it on behalf of the committee.

Mr. President, Peter J. Brennan, the President's nominee for Secretary of Labor, has an extensive history primarily as a working man himself and as a labor leader, starting his life as a painter and still member of the painters' union in good standing. He has served in a progression of union offices, from business agent of his local union to his current post as president of the New York Building and Construction Trades Council, a position he has held with distinction since 1958.

Mr. President, I ask unanimous consent to have printed in the RECORD a curriculum vitae on Mr. Brennan.

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

BIOGRAPHICAL SKETCH: PETER J. BRENNAN

A native New Yorker, Mr. Peter J. Brennan lives with his wife in New York. He has three children and five grandchildren. He was educated in New York public schools.

He was interested in labor and entered the painters' apprenticeship training. Later he became a master painter. He became active in union affairs and was elected to the office of recording secretary and later financial secretary of his local union.

When our country became involved in World War II, he jointed the U.S. Navy. He served in the Pacific with the submarine forces.

After his honorable discharge from the Navy, Mr. Brennan returned to his union activities and was elected business representative of his local union. He later became assistant to the president of the New York City Building and Construction Trades Council and director of its maintenance division.

In 1957 he was elected president of the New York City Building and Construction Trades Council after the death of its president. In 1958 he was elected to the office of president of the New York State Building and Construction Trades Council and in 1959 he was elected a vice-president of the New York State A.F.L.-C.I.O. He is active in many church, civic and youth activities and has served as a labor mediator and on many committees for the mayor of the City of New York and the Governor of New York.

Mr. Brennan was instrumental in having the Building & Construction Trades Unions work and cooperate with the Workers' Defense League in bringing minorities into their apprenticeship training programs. He also worked with the people in the Brooklyn Model Cities Area in setting up a training program for the minorities which set a good model for the rest of the city.

He was the prime mover in the several plans for training minorities for the construction industry.

Mr. Brennan is an officer and member and past member of many outstanding organizations such as:

1. Member of the executive board of the York City Central Labor Council A.F.L.-C.I.O.
2. Trustee of the Sacred Heart of Jesus Church in Manhattan.
3. Vice-president and director of the Police Athletic League.
4. Vice-president and director of the New York Building Congress.
5. Member of the board of directors of the New York World's Fair.
6. Member of the board of directors of the United Community Funds and Councils of America.
7. Member of the board of directors of Greater New York Safety Councils, Inc.
8. Member of the advisory commission of the construction technology department of the New York City Community College.
9. Vice-chairman of the New York State Job Development Authority.
10. Member of the New York State Workmen's Compensation Advisory Committee.
11. Member of the Advisory Board on Prevailing Wages for Public Works in New York State.
12. Past chairman of the 16th Precinct Youth Council.
13. Member of the Cooperative Education Commission of the New York City Board of Education.
14. Member of the Advisory Committee on Labor Relations, Cornell University School of Labor and Industrial Relations.
15. Member of the Hudson River Valley Commission.
16. Co-chairman of Construction Industry United Fund of Greater New York.
17. Vice-chairman of the Construction Industry Boy Scout Lunch-O-Ree.
18. Member Board of Directors of the United Fund of Greater New York.
19. Member of New York State Labor Department's Safety Advisory Council.
20. Co-chairman of the Joint Board of the Construction Industry of New York City.
21. Member of the New York joint legislative committee on transportation.
22. Member of the mayor's building and construction advisory council of the city of New York.
23. Member of the board of directors of the New York State Urban Development Corporation.
24. Member of the board of directors of the National Housing Conference, Inc.
25. Member of Citizens Budget Commission, Inc.

He is an officer and member and past officer of veteran, fraternal and civic organizations too numerous to list.

He has received many awards and honors from civic, fraternal, professional, youth, veteran and labor organizations. He was honored in 1964 by the Republic of Italy, when he was made a Knight Officer in the Legion of Merit.

April 21, 1956—James P. Dawson Memorial Award—for his untiring efforts on behalf of the children of the West Side.

May 24, 1956—Citation from Police Athletic League, Inc. for his outstanding service to the P.A.L. in its efforts to promote wholesome recreation and social opportunities for the boys and girls of the city of New York.

June 19, 1958—Construction Industry Award by United Jewish Appeal.

October 17, 1959—Civil Service Painters Award for outstanding leadership in labor.

May 26, 1958—Award of the local joint executive board of the Hotel and Restaurant Workers for his outstanding efforts and assistance to their members.

May 1959—Awarded citation from the Greater New York Fund for his aid in assisting to raise funds for their 425 affiliated agencies.

February 11, 1961—Distinguished Service Award of the New York City Central Labor Council.

October 1964—Firefighers Local 94 Award for his dedication in assisting the firemen obtain a better life for themselves and their families.

October 24, 1964—Ancient Order of Hibernians Award for outstanding leadership in the betterment of the social welfare of all workers in New York.

May 8, 1965—Awarded the honor award of the New York State Society of Professional Engineers for his distinguished service as president of the Building and Construction Trades Council of Greater New York in the construction of the Verrazzano-Narrows Bridge.

June 7, 1968—Received the distinguished service award from firefighters for his support of their aims and ideals.

July 3, 1970—The good citizenship medal of the National Society of the Sons of the American Revolution.

July 13, 1970—Kings County American Legion Citation for meritorious service to the legion and our country.

July 31, 1970—Green-Murray Award of the Fraternal Order of Eagles, for his distinguished and outstanding leadership and statesmanship in labor affairs.

August 19, 1970—The Veterans of Foreign Wars gold medal of merit and citation for his outstanding leadership of his union members in providing inspiration to all Americans who love their country and for supporting our fighting men in Southeast Asia.

October 9, 1970—Man of the Year Award from the National Grand Council of Irish Emerald Societies, Inc. in recognition of his untiring efforts on behalf of his fellow man regardless of race, color or creed.

October 28, 1970—Citation of appreciation and merit for his unselfish contribution to the German-American community and to all Americans regardless of race, creed or national origin, by the Grand Council of Steuben Association in Civil Service.

May 21, 1970—Received the J. F. Kennedy Library for Minorities American heritage citation for helping minorities get into apprentice training.

December 3, 1970—The Merwin K. Hart Award by the National Economic Council, for promotion of our American heritage.

December 7, 1970—The award of merit from the Order of Lafayette Association for combating communism and defending our American way of life.

April 23, 1971—Gold Patriots Award from the Congressional Medal of Honor Society of the United States of America.

October 7, 1971—Boy Scout Award—"Good Scout."

November 13, 1971—New York State Veterans of Foreign Wars Silver Medal for Patriotism.

September 15, 1971—Award from State of Israel Bonds for aiding their campaign.

May 12, 1972—St. Francis College Award for his activities in helping underprivileged children get a college education.

October 7, 1972—Greater New York Fund plaque for aiding them in fund raising for their 426 charities.

Painters District Council No. 9 plaque in recognition of his help to the painters and working men in general in their efforts to make a better living.

New York State Department of Labor certificate of merit acknowledging his meritorius service to the state.

November 21, 1972—New York State Dept. of Labor—Office of Manpower Development—for his assistance to men and women in their endeavors for a better way of life.

April 21, 1972—American Irish Immigration Committee Award.

Mr. JAVITS. Mr. President, while he served in his various union offices, Peter Brennan has been a colorful and able

spokesman for hundreds of thousands in the building trades of New York. He is a labor leader of great distinction—or the President would not have appointed him—but also, as the list of offices, achievements, and honors in the curriculum vitae indicates, he has been a community leader of exceptional ability and achievement.

As president of the New York Building and Construction Trades Council, he is really the president of a trade association of unions. He holds no actual power to force any individual union to take a specific action in the equal opportunity field. Yet, the committee heard testimony from him, and from the action of the committee one would assume it was satisfactory testimony, that he used his prestige as president of the council, and his own powers of persuasion, in efforts to bring members of minority groups, by color and ethnic group, blacks, Puerto Ricans, and other members of minority ethnic groups, into the construction trades, through such projects as the Brooklyn model cities plan, the Buffalo "Build" program, and the New York plan. Just 2 weeks ago the New York regional administrator of the U.S. Labor Department announced that during the past 14 months, over 3,000 members of such minority groups in the New York area have participated in training programs in the construction industry, and 795 have achieved journeyman status.

There was some argument about what had been accomplished by something called the New York plan, with very small figures cited as the number of people who had actually broken through to become full-time workers or even journeymen. But the report of the Department of Labor points out that the true picture depends on considering all types of activities, not just the New York plan. Hence, it seems to me that these are the figures which should be considered as we judge Mr. Brennan's activities and other actions which were taken in New York, rather than limiting the analysis strictly to the New York plan.

Without any question, there was testimony about discriminatory employment practices by the building trades in New York, and deep complaint and feeling on that score, in an effort to lay it at Mr. Brennan's door.

The PRESIDING OFFICER (Mr. McCLURE). The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 additional minutes.

Mr. JAVITS. Mr. President, there is no doubt about the fact that Mr. Brennan would be the first to agree that we still have a long way to go to end discriminatory employment practices in New York and the rest of the country, in the construction industry and in other industries. But Mr. Brennan testified eloquently again, and apparently to the satisfaction of the committee, which acted unanimously, of his intention to give equal employment opportunity high priority in his new post, and in this and other areas. I feel that, based on his record, he will act with complete fidelity to the obligations of his office and not, as some would seem to imply, as just parochial advocate for one group of unions—that is, the construction trades unions.

Indeed, his testimony in this regard and in other regards as to the compatibility of his views as a union leader with his role as Secretary of Labor was so forthcoming and so frank that he really had to be cautioned—and I cautioned him—about the way in which he would administer policy which, because of the need for compromise in all governmental matters, might cause him to come to grief, because it might be inconsistent with his personal views.

I expect that because of what Mr. Brennan has accomplished in the anti-discrimination field, and what he did in settling the Long Island Railroad strike, which was a real achievement in ending a deadlocked strike which had gone on for almost 2 months, and which he carried off even though not yet confirmed and while he was busy learning all the things he had to learn as the incoming Secretary of Labor, the workers of America will be magnificently served by him as Secretary of Labor.

I also believe that Peter Brennan's experience in dealing with the day-to-day problems faced by all workers will be of enormous benefit in helping to improve the administration of Labor Department programs. Among these, of such high importance, are the Occupational Safety and Health Act, which is a monumental problem to administer, the Fair Labor Standards Act. His expertise will also be invaluable as we grapple with such problems as national emergency and regional emergency labor disputes and their impact on the economy of the country, and wage and price controls, the reform of pensions and welfare plans, and a host of other matters.

I deeply believe that Mr. Brennan will discharge with great fidelity all of the various measures designed to prevent the economic or physical exploitation of workers—and we all know how desperately these programs need intelligent, efficient, and yet hard-headed, commonsensical administration.

So the committee felt, according to its unanimous vote—and I feel—that Mr. Brennan's qualifications for the post of Secretary of Labor give us every right to expect a most outstanding administration, that his experience as a labor leader can be turned to enormous usefulness by the United States, and that he is not so stratified in his thinking as to prevent him from that objectivity and broad understanding of the public interest in labor matters which is the basic qualification for any Secretary of Labor.

For all those reasons, Mr. President, I hope that in the record vote which will ensue, Mr. Brennan's nomination to be Secretary of Labor will be confirmed.

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

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

Mr. WILLIAMS. Mr. President, I believe that, at the request of the leadership, the time is to be equally divided between the Senator from New York, the ranking member of the committee, and myself, as chairman.

We both support the nomination of Mr. Brennan to be Secretary of Labor. No one has requested of me any time to speak in opposition to the nomination. I believe it has been stated that the confirmation of Mr. Brennan's nomination was reported unanimously by the Committee on Labor and Public Welfare. That committee and I, as chairman, urge the adoption of this recommendation.

I think it appropriate, particularly at this time, that the person nominated to this position shall have come from the ranks of organized labor, for the incumbent of this office is the only advocate in the President's Cabinet to represent the needs of the millions of ordinary working men and women throughout this country. Other groups, such as business and industry, have many spokesmen in the upper echelons of the Federal Government, but for the average wage earner, there is only one person to plead his cause in the executive branch—the Secretary of Labor. I believe that Mr. Peter Brennan can and will present such a case on behalf of all of this Nation's working men and women.

It is especially heartening that Mr. Brennan has demonstrated a willingness to disagree with positions that the administration has previously taken. And from all that we know about him, we can fully expect that Mr. Brennan will not passively accept policies and decisions which he believes to be contrary to the interests of working people. This is in refreshing contrast to the rest of this administration, which seems to be composed of so many faceless operatives intent upon obeying White House directives to eliminate or cripple a host of programs designed to meet the needs and concerns of the people of this country.

During our committee hearings on this nomination, there was testimony in opposition to Mr. Brennan, primarily from groups concerned that he had not shown sufficient sensitivity to the problem of securing equal employment opportunity for minorities and for women. However, the committee also heard testimony from representatives of the Black Trade Unionists Committee of the New York City Central Labor Council, and from groups representing Puerto Rican workers, who, on the basis on having worked directly with Mr. Brennan, were most emphatic in praising his efforts to provide improved job opportunities for minority workers. I will say that Mr. Brennan's statements before our committee concerning his devotion to the principle of equal opportunity for women and for minority groups carried the ring of conviction and sincerity and I fully expect that he will honor his pledges as Secretary of Labor.

Mr. Brennan has promised our committee that he will be available at all times for consultation, and, unlike so many officials of this administration, appears genuinely anxious to work closely with the Congress in fashioning and improving the programs for which he will be responsible.

I profoundly hope that Mr. Brennan's tenaciousness of the past will reflect itself in the future as a fighter for the

undertakings which he told the committee he personally supports—notwithstanding the fact that such positions may be contrary to those favored by the administration.

I would say, finally, that this session of Congress will be concerned with many matters of vital interest to working men and women in this country. Many of the problems and opportunities that we will face legislatively were raised in the hearings of the committee when Mr. Brennan appeared before us. I was most encouraged to hear from him expressions of philosophy and approach which suggest to me that he views today's needs very much as we view them within our committee.

Last year, we passed a bill dealing with minimum wages. In that bill we extended coverage to approximately 8 million people who are not now covered under the Fair Labor Standards Act minimum wage provisions. We also increased the minimum wage to $2.20 an hour. That measure was not enacted, because it ran into trouble in the other body, where there was greater opposition to our effort to provide equality of treatment to all workers without respect to their age. There were some in the House—enough to block the enactment of these bills—who wanted a subminimum wage for minor workers.

We raised this matter with Mr. Brennan, and he indicated quite clearly that he would not favor having two classes of workers, one getting the minimum wage and one getting a subminimum wage, for doing the same work.

This suggested to me that this is one major piece of legislation that now will come forth with the support and the advocacy not only of a majority of Congress but of the Department of Labor as well.

I could enumerate other matters we discussed with Mr. Brennan in the hearing. I was completely satisfied that the work of Congress will be implemented fully by Mr. Brennan as Secretary of Labor.

Another area of great concern is occupational health and safety. We have been highly critical here in Congress of the administration of that program. One of our major criticisms was that the Department of Labor did not gear up to do the job for which Congress legislated.

The administration has never come to Congress for an adequate inspection staff. Now, the outgoing Secretary of Labor tells us that, since there is not sufficient staff, much of the responsibility has to be turned over to the States. We could have told them that there had to be a larger staff right from the beginning

Mr. Brennan has made it clear that he knows the importance of safety on the job and, as Secretary of Labor, will do all he can to see that the program is fully implemented, and that there are sufficient inspections of working places to assure that safety and health standards are being met.

Mr. President, I support the nomination of Mr. Brennan with enthusiasm.

Mr. JAVITS. Mr. President, I yield myself one-half minute.

I thank the Senator from New Jersey so much for what he said. I hope he will join with me in seeking a quorum call, the time to be charged to both sides. I announce that I am ready to yield on my time, all except 1 minute, to anyone who wishes to speak for or against Mr. Brennan, preferably yielding to those who want to speak against, in order to give them equal time. From what the Senator from New Jersey said, I am sure he is ready to give appropriate proportionate time to anyone who wishes to speak.

Mr. President, the deputy majority leader suggests a better plan. We have no notice from anyone who desires to speak on this nomination. It is suggested that we recess until 10 minutes before 3 and that we resume at that time. At that time I would be prepared to yield all but 1 minute of my remaining time to any opponent.

Mr. HELMS. Mr. President, I rise to oppose the nomination of Peter J. Brennan as the Secretary of Labor. I want to make it clear that I do not oppose Peter J. Brennan the man. Although I do not know him personally, he has a widespread reputation as a dedicated worker, a sensitive patriot, and a man of courage, who inspires loyalty and devotion in his union colleagues.

The problem which arises is a question of national policy: Whether or not it is wise—indeed, even fair to the man involved—to place an acknowledged strong advocate for an organized minority of workers in a position where he must advise the President on issues which affect all workers equally alike. There are approximately 83 million workers in the United States; of these less than 20 million have joined unions, and many of those had no choice as to whether they wished to join or not. Mr. Brennan's professional orientation up to this point has been toward the interests of the organized minority, interests which are often in conflict with the majority of workers.

The Secretary of Labor must often act as a mediator between those opposing interests. At the same time, he often acts as a mediator between the interests of the workers in general, and those of management. This is a very delicate situation, for labor and management often depend upon each other. It is asking too much for a man who has trained himself in an adversary relationship suddenly to adopt a neutral stance.

I do not impugn Mr. Brennan's sincerity in his stated belief that he can be neutral between union and nonunion workers, and between labor and management. But good intentions cannot always work in impossible situations. I recall that President Eisenhower chose to take a similar step when he nominated Martin Durkin to the same post. Mr. Durkin was also a strong representative of organized labor, and it was only a few months until he realized that there were irreconcilable conflicts between his philosophy and the job he was supposed to be doing. Historical parallels always vary in many details and I am sure that Mr. Brennan anticipates a different outcome. Nevertheless, the basic principle cannot be denied.

Therefore, Mr. President, I am voting against the principle, not the man. I admire many of the stands he has taken on behalf of the country and of our traditional values. I think that some of the attacks made upon him have been unconscionable and unreasonable. He has made a deep impression upon a great many Members of this body and has a wide spectrum of support. Yet we must recognize that the Secretary of Labor has enormous power over all employees and all employers in this country; and if any worker or any employer feels that the Secretary of Labor is less than objective in considering special problems or in protecting their right to join or not to join a union, then we will be developing an unhealthy climate for the workers everywhere in the country.

Mr. President, I cannot forget the fact I have just been elected to this body with the support of thousands of blue-collar workers. They know where I stand, and they expect me to safeguard their interests. I can think of no better way to uphold the rights of labor—of all labor—than to uphold the principle that the Secretary of Labor should not be a man representative of special interests, one way or another. Just as I would be opposed to a man with a recorded hostility to unions, I cannot in good conscience support a nominee whose past career has been devoted to the promotion of the special point of view of compulsory unionism.

Mr. BUCKLEY. Mr. President, I strongly endorse President Nixon's nomination of Peter J. Brennan to be Secretary of Labor. Mr. Brennan is an authentic voice of the American working man, a voice that needs to be heard at the highest levels of Government. Both for what he is and for what he represents, Peter Brennan will prove to be a valuable addition to the Nixon Cabinet.

A forceful, fairminded and energetic leader, Mr. Brennan has brought distinction to the position of president of the New York City and New York State Building and Construction Trades Councils. He knows the problems of the working man at first hand, in a way far superior to the second-hand knowledge of bureaucratic or professional theorists.

The building and construction trades, in which he has worked for many years, demand from a worker more than mere competence; they demand the kind of professional skill and pride in craftsmanship that not only get the job done but get the job done in the way it should be done. It will be refreshing to have a man with his background and knowledge guiding an important part of the Federal bureaucracy.

Peter Brennan is a strong man, else he could not have achieved his present position as a union leader. He is also an intelligent, fairminded man, else he could not have earned the widespread respect he commands. He has the capacity to work with others on a reasonable basis, the ability to reach workable compromises mutually agreed upon, else he would not have such strong support among management in the New York construction industry. These surely are attributes which should serve him and the Nation well in the post to which he has been nominated.

Mr. President, I am proud, as a Senator from Peter Brennan's home State, to

support his nomination because of what he is; I am equally proud to support him for what he represents. He represents a kind of American who has many names. Some call him "hard-hat"; others call him "middle American"; still others call him "blue-collar". I prefer to call him "American", a title he is proud to bear.

The American symbolized by Peter Brennan is not ashamed of being known as a patriot. When his country is in trouble, he is not persuaded by fashionable critics to desert it. He takes care of his own, whether it be his family, his property or his country. He knows what it is to work hard and he knows the satisfaction of seeing the fruits of that work enable his family to prosper.

Mr. President, we need more Peter Brennans in positions of governmental responsibility, men and women of every ethnic background who through character and diligence have achieved their own successes in every sector of American life; men and women who can bring to government a practical understanding of the forces and values upon which this country has been built.

Mr. TOWER. Mr. President, I will vote to confirm the nomination of Mr. Peter Brennan to be Secretary of Labor It has been my long-standing position that the President should be allowed maximum flexibility in choosing the individuals who will advocate and carry out his programs and policies. The only restriction that should be placed upon a cabinet nominee is that he should be free of any conflict of interest that would jeopardize his ability to function in an honest and forthright manner. Mr. Brennan is totally free of any such conflict of interest.

However, there are a number of reservations I would like to have on the record concerning some of Mr. Brennan's expressed positions. These positions are confirmed by Mr. Brennan's testimony before the Committee on Labor and Public Welfare.

It is quite clear that Mr. Brennan does not agree with many of President Nixon's legislative aims affecting the Department of Labor. For instance, he opposes the administration position on the minimum wage law. He particularly opposes the concept of a youth differential wage which became the critical aspect of the 92d Congress' deliberation on the minimum wage law. Mr. Brennan also opposes the administration-backed crippling strike prevention bill which is intended to provide some stability in the various transportation industries. This bill takes into consideration, to a greater extent than is currently recognized, the interests of the general public who are not directly involved in the collective-bargaining process.

In addition, I am very much concerned that Mr. Brennan finds himself in philosophical disagreement with the entire focus of President Nixon's new federalism. In response to a question on the decentralization of manpower programs posed by the Senator from Massachusetts (Mr. KENNEDY), Mr. Brennan related his doubts about the desire and ability of the States to provide assistance to the elderly and other groups that are assisted by these programs. Since State and local control of program development and administration is the central ingredient of the thrust of the President's domestic program, I am extremely disappointed by this response.

Mr. President, it is my sincere hope that Mr. Brennan develops a broader understanding of his responsibilities as Secretary of Labor. At his hearing he seemed to indicate that he perceived his new role as that of an advocate for the wage earner. In fact, the Secretary of Labor should not be an advocate for any one segment of our society. He should fairly represent the wage earner, both the union member and the individual who exercises his right to refrain from union activity, employers both large and small, and the general public at large.

At the same time, it is important that the Secretary of Labor recognize that more and more Americans are realizing the reality of the inordinate degree of monopolistic power held by the larger unions in this country. In this respect, I would urge him to recognize the merit of some of the labor law reform proposals which have and will be introduced in Congress to reestablish a balanced national labor-management policy to insure the long-standing announced Federal position of neutrality in the collective bargaining process.

Mr. President, I am confident that Mr. Brennan has the temperament and ability to view all of these issues in a broader, perspective, taking into consideration the overall interest of the public. For my own part, I will be more than willing to assist him in these endeavors.

RECESS TO 2:50 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 2:50 p.m. today.

The motion was agreed to, and (at 2:22 p.m.) the Senate took a recess until 2:50 p.m.; whereupon the Senate reconvened when called to order by the Presiding Officer (Mr. MCCLURE).

Mr. ROBERT C. BYRD. Mr. President, I ask for order in the Chamber. I suggest the absence of a quorum and I ask unanimous consent that the time consumed by the quorum call be equally charged to both sides.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I yield myself 30 seconds. I just wish to announce to Senators who are here, who were not here before, that Senator WILLIAMS and I have had no requests for time for or against the nomination. I refer especially to the latter. We are quite prepared to yield whatever time we have to anyone who wishes to oppose this nomination.

Mr. President, I again suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

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

The legislative clerk proceeded to call the roll.

Mr. PERCY. 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. PERCY. So that I may make a very brief comment.

Mr. JAVITS. Mr. President, I yield the Senator 2 minutes.

Mr. PERCY. I thank my distinguished colleague.

I would just like to express my enthusiastic support of the nomination before us. Mr. Brennan is eminently qualified. I have talked with a number of labor leaders, both of my own State and national labor leaders, for their reaction, and I was not at all surprised to find them equally enthusiastic at having a member of organized labor actually take the position of Secretary of Labor.

He not only enjoys the confidence of the labor leadership in this country, but also is highly respected by members of industry in the industries with which he has been associated in the past. He obviously enjoys the support of the President of the United States and has his confidence, and I think he has the confidence also of a great many Members of Congress, including myself.

So I enthusiastically support the nomination that is now before the Senate.

Mr. JAVITS. Mr. President, we are prepared to conclude debate. How much time remains?

The PRESIDING OFFICER (Mr. MCCLURE). All time has now expired.

Mr. JAVITS. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from New York wish to ask for the yeas and nays?

Mr. JAVITS. Does the Senator wish me to do that? We do not require it. If the Senator wishes it.

Mr. ROBERT C. BYRD. I think we should have a rollcall vote because it was announced that there would be a rollcall at this time.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 3 p.m. having arrived, the question is, Will the Senate advise and consent to the nomination of Mr. Peter J. Brennan, of New York, to be Secretary of Labor?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Florida (Mr. CHILES), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Maine (Mr. HATHAWAY), the Senator from Washington (Mr. MAGNUSON), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

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

I also announce that the Senator from

Indiana (Mr. HARTKE) is absent because of death in the family.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. HATHAWAY), and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The Senator from Tennessee (Mr. BAKER) and the Senator from Kentucky (Mr. COOK) are necessarily absent.

The Senator from Arizona (Mr. FANNIN) is detained on official business.

The result was announced—yeas 81, nays 3, as follows:

[No. 5 Ex.]

YEAS—81

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

NAYS—3

Abourezk	Haskell	Helms

NOT VOTING—16

Baker	Fulbright	Saxbe
Chiles	Gravel	Stafford
Cook	Hartke	Stennis
Cranston	Hathaway	Symington
Ervin	Magnuson	
Fannin	Mathias	

So the nomination of Peter J. Brennan, of New York, to be Secretary of Labor was confirmed.

Mr. MANSFIELD. Mr. President, I move that the President be notified of the confirmation of the nomination.

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of James T. Lynn to be Secretary of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, the clerk will report the nomination.

The legislative clerk read the nomination of James T. Lynn of Ohio, to be Secretary of Housing and Urban Development.

PROGRAM

Mr. SCOTT of Pennsylvania. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. SCOTT of Pennsylvania. Mr. President, I rise to ask the distinguished majority leader what the program is for tomorrow, how long he expects debate on this nomination to take, and what the succeeding business is for the remainder of the week.

Mr. MANSFIELD. Mr. President, if the Senate will give us some attention, it is quite possible that we could dispose of the nomination of Mr. James T. Lynn in a matter of a few minutes.

Following that, it is the intention of the leadership to call up S. 606, a bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, to be followed either by Senate Joint Resolution 42, a joint resolution to extend the life of the Commission on Highway Beautification—very likely No. 2—and then S. 518, a bill to provide that appointments to the offices of Director and Deputy Director of the Office of Management and Budget shall be subject to confirmation by the Senate.

Other measures will be reported today and tomorrow, so I think we will have a productive week.

Mr. SCOTT of Pennsylvania. I thank the distinguished majority leader.

It is my understanding that on the rivers and harbors bill there will be no votes today. The purpose is to get started on it, so that we can go into it more substantively tomorrow. Is that correct?

Mr. MANSFIELD. That is my understanding. We will get started on this bill. If there is a vote, we can have it tomorrow; but if we get through in sufficient time, we will then turn to Senate Joint Resolution 42, reported by the same committee.

Mr. SCOTT of Pennsylvania. May I inquire of the distinguished majority leader whether we can obtain early disposition of the nomination of the President of Mr. Caspar W. Weinberger to be Secretary of Health, Education, and Welfare?

Mr. MANSFIELD. Mr. President, in response to that question, the majority leader is hopeful that we can dispose of the Weinberger nomination before the Senate recesses for the Lincoln Day interim next week.

I assure the distinguished minority leader that, so far as I am concerned, I will do my best to expedite its consideration.

Mr. SCOTT of Pennsylvania. I thank the distinguished Senator.

Mr. JAVITS. Mr. President, will the Senator yield on that point?

Mr. MANSFIELD. I yield.

Mr. JAVITS. I wish to state, for the information of the Senate, that the majority is showing every cooperation with the minority in expediting the consideration of Mr. Weinberger's nomination.

They will have an executive session on Friday at which Mr. Weinberger will appear. I made inquiry all around and I am satisfied that there is every will and desire to cooperate with the leader's schedule and to see that this matter can be disposed of before the recess.

NOMINATION OF JAMES T. LYNN TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the nomination of James T. Lynn, to be Secretary of Housing and Urban Development.

Mr. PROXMIRE. Mr. President, in connection with the nomination now before the Senate, four of us in committee voted against the nomination; the majority voted for the nomination. I believe the Senate should reject the nomination of Mr. James T. Lynn to be Secretary of the Department of Housing and Urban Development. I believe he should be rejected for two reasons. First, he should be rejected because he does not have the background and experience to handle the job. Second, he should be rejected as a protest against the illegal and unconstitutional moratorium on our housing and urban development programs.

Mr. President, Mr. Lynn has virtually no experience in housing or urban affairs. He has never been a mayor or local official or a Congressman or State legislator. He has never had to fight to secure adequate funds for our cities. He has no firsthand knowledge of the needs of our cities. Mr. Lynn has primarily been a corporation lawyer and in the last 4 years, he has served in the Commerce Department. There is nothing in his background to suggest that he understands the complexities of the problems facing our urban areas.

Lack of participation in organizations concerned with Cleveland improvement, in this case vital to the background he needs for the job, not only will he have had no experience with community groups but he will have an office in the Executive Office Building which also is removed from the pressures of the mayors and community groups which he would have if his office were at HUD.

In addition to a lack of knowledge, Mr. Lynn seems to lack the sense of commitment to our housing programs which we have a right to expect in a HUD Secretary. His answers to questions on this point were evasive and totally unresponsive. Any Senator who takes the time to read the hearing record cannot help but get the feeling that Mr. Lynn does not know very much about our housing and urban development programs and is not very sure that he supports them.

The Secretary of HUD is, of course, responsible to the President. But he also has a responsibility to Congress. He is responsible for carrying out the statutory responsibilities assigned to him by Congress. If he cannot give us assurance that he will faithfully discharge these responsibilities, then he should not be confirmed. Indeed, that is the whole purpose of holding a nomination hearing—to find out what the nominee thinks about the programs he will administer.

The appointment of Mr. Lynn seems to fit a pattern established by the President during his second administration. The President seems to prefer men without experience or background to administer our major departments and agencies.

Does the present administration in planning to cutback on many of our social and economic programs want to avoid trouble from the officials of those departments whose programs are cut? If so, they have a perfect formula in the Lynn nomination.

If the President wants a person to preside over the liquidation of our housing and urban development programs, he has picked an ideal candidate in Mr. Lynn. Mr. Lynn has no feel for the needs of our cities and no firm views on what should be done. Moreover, as a relatively nonpolitical individual, he has no public constituency of his own to mobilize against the anonymous budget cutters in OMB. As a corporation lawyer, he is used to following the wishes of his client, in this case, the President of the United States. And he is isolated from the housing and urban constituency so they can keep him antiseptic.

Mr. President, can you imagine the public outcry if the President were to appoint an advocate of unilateral disarmament to head our Defense Department? Everyone expects the Secretary of Defense to believe in the need for a strong national defense and to articulate those needs within the Government. Why should the Secretary of HUD be expected to behave differently? If Mr. Lynn does not speak out for the cities within the Nixon administration, then who will? If Mr. Lynn does not speak out for better housing for the poor, then who will?

There is nothing in Mr. Lynn's background to indicate that he is deeply committed to making our cities better places in which to work and live. In his home town of Cleveland, there were numerous organizations dedicated to urban development. Mr. Lynn did not belong to any of them. When asked about the future of our housing programs, he replied:

I really do not have a feeling at this moment where I want to proceed.

When asked how he will determine which programs are viable, he said:

I have to punt at this point in time as to the exact way I intend doing it.

Mr. President, at this critical time, we do not need a punter in charge of HUD. We need a driving, charging, plunging fullback. We need a man who will carry the ball for housing and our urban ghettos, not a man who will kick it away. If Mr. Lynn cannot come up with better answers his nomination should be rejected.

I realize that many Members of the Senate feel that a President ought to have the right to name his own Cabinet officers and that the Senate should not reject a nominee unless there is clear evidence that he is morally unfit for the job. The President ought to be given wide latitude in selecting the heads of major departments. But I do not believe our Founding Fathers had such a narrow view of the role of advise and consent.

The Constitution does not say that we must defer to the wishes of the President. The Constitution does not require us to rubberstamp all nominations unless there is evidence of personal wrongdoing. It is the Senate itself which has grown meek and flabby by failing to exercise the authorities it has under the Constitution. We have a right to impose our own standards on the officials of the executive branch and if a prospective nominee does not measure up to those standards, we have a right to reject him.

I do not notice the President meekly deferring to the Congress on constitutional issues. I do not see the President wringing his hands and complaining about the Congress usurping his responsibilities. I do not see him shrugging his shoulders and saying "this is the job of Congress, therefore I cannot interfere." Indeed in the latest budget message, the President is even advising us as to how we should reorganize our affairs.

We fail to use the authority that is ours and then we sit around and complain that the President has all the power. If we are really serious about reasserting our authority, we should begin on nominations. This is one area where our authority is clear and we can make our influence felt. There are many men who are eminently more qualified to head the Department of Housing and Urban Development than Mr. Lynn. There are men of experience with a proven commitment toward solving urban problems. We should reject Mr. Lynn and insist that the President appoint someone who is more qualified.

Mr. President, another reason for rejecting Mr. Lynn is to protest the President's illegal and unconstitutional moratorium on our housing and urban development programs. I think the housing moratorium goes way beyond the issue of executive impoundment. I differ with a number of my colleagues on the impoundment issue. I believe the President does have the right, and indeed, the duty to impound funds to help stabilize our economy. I support the President 100 percent in his efforts to hold down spending. As I matter of fact, I think he should have gone further and held outlays for 1973 to $245 billion instead of $250 billion and in the 1974 budget to $265 billion.

However it is one thing to impound money to fight inflation. It is an entirely different matter to virtually suspend the programs of a major department for 18 months without the approval of Congress. The housing and urban development programs should be cut to stay within an overall spending level that is consistent with price stability. I am not suggesting that our housing and urban development programs should not bear their fair share of the burden of fighting inflation. But I do not believe the President has the right to wipe these programs off the books for 18 months because he does not like them. If he has evidence they are not working right, let him submit the evidence to Congress with a request that the appropriate laws be repealed.

The difference between the moratorium and ordinary impoundment is one of kind and not merely degree. The President has in effect repealed legislation enacted by the Congress including the goals contained in the 1968 Housing Act.

These goals called for the construction of 26 million housing units over a 10-year period including 6 million units for low- and moderate-income families. By establishing an 18-month moratorium on our housing subsidy programs, the President is making it virtually impossible to achieve these goals.

When Mr. Lynn was questioned on this point, he did not give the committee any assurance that he would seek to pursuade the President to lift the moratorium. Indeed, Mr. Lynn said just the opposite. He said that he agreed with the President and that he thought the President was right to establish the moratorium. If we confirm Mr. Lynn under these circumstances, we will give our tacit approval to the illegal action of the President.

There are some who may argue that it is not fair to use Mr. Lynn as a hostage in a quarrel with the President. This argument assumes that Mr. Lynn is an innocent bystander caught in the crossfire between the President and the Congress. However, the fact is that Mr. Lynn is not an innocent bystander caught in the crossfire. He is on the President's side and against us. He supports the President's moratorium. He clearly said during the hearing that he thinks it was the right decision. Incidentally, this was one of the few clear statements that Mr. Lynn did make.

How can the Senate confirm a man who supports and upholds the right of a President to usurp our constitutional responsibilities? If we confirm Mr. Lynn, we concede the argument to the President. One of the few constitutional powers left to Congress is the confirmation power. We should begin using it today.

HISTORY OF ADVICE AND CONSENT

Mr. President, I realize there is a prevalent feeling in the Senate that the President ought to be given the widest possible latitude on Cabinet appointments and that a Cabinet appointment ought not to be rejected unless the appointee is a proven malefactor. I believe this narrow conception of the role of advice and consent is wrong and should be challenged. Neither the Constitution nor the precedents established by the Senate support this narrow view of our responsibility. Indeed, the narrow view of advice and consent is more a product of the recent ascendency of the Presidency and the relative eclipse of the Congress. Congress is finally beginning to reassert itself and challenge the President's authority in a number of areas. As we begin this process, I believe we should take a critical look at our power of advice and consent and how we have permitted it to decline to a pale imitation of the role envisioned by our Founding Fathers.

The debates at the Constitutional Convention reveal there was a strong difference of opinion on who should have the power of appointment. There were some who argued that the power to appoint judges to the Supreme Court should rest exclusively with the Senate. Others felt the power should be assigned exclusively to the President. This debate was subsequently extended to the making of other appointments and to the making of treaties. The compromise finally reached was an attempt to reconcile these divergent views. The appointments authority under section 2, article II, reads as follows:

[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public

Ministers and Consuls, Judges of the Supreme Court and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The first thing to note about this language is the word "advice." Congress does not merely consent in appointments; it has the constitutional power and duty to offer its advice as well. If the Senate were not expected to exercise its independent judgment, the Founding Fathers would have omitted the word "advice." As Prof. Charles L. Black, Jr., of the Yale Law School has observed:

Do these words suggest a rubber-stamp function, confined to screening out proven malefactors? I submit that they do not. I submit that the word "advice", unless its meaning has radically changed since 1787, makes next to impossible that conclusion. (Yale Law Review, March, 1970, p. 658)

The second thing to note about the language in section 2, article II is that the Congress, and the Congress alone determines which other offices are to be subject to Senate confirmation. Congress may subject such offices to Senate confirmation as they think proper. Thus under the Constitution, we in Congress are the exclusive and final judges of who should be confirmed and who should not. Given this power, we are also, of necessity, the exclusive and final judges of the criteria governing the confirmation of Presidential appointments. If we determine the list of appointees subject to confirmation, we inevitably determine the criteria by which they are to be judged. There are no constitutional restraints which limit our powers in this area.

The intent and meaning of the "advice and consent" power was clearly spelled out in Federalist Paper No. 77 written by Alexander Hamilton. Hamilton argued the power of advice and consent was intended to operate as a check on executive power. He concluded with the following observation in justification of the Senate's role in appointments:

He [The President] would be both ashamed and afraid to bring forward, for the most distinguished or lucrative stations, candidates who had no other merit than that of coming from the same State to which he particularly belonged, or of being in some way or other personally allied to him, *or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure.*

Mr. President, this quote from the Federalist Papers clearly indicates that the drafters of our Constitution envisioned a far broader role to the power of advice and consent than the meaning we sometimes give it today. The authors of the Constitution clearly intended for the Senate to look into the merits and qualifications of Presidential appointees and to reject those of insufficient stature and experience. I know of no better way to describe the nomination of Mr. Lynn than to re-read the words of Alexander Hamilton who once again has shown remarkable foresight: According to Hamilton:

The power of advice and consent is to be used to prevent the President from appointing men "possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure.

The hearing record on Mr. Lynn's nomination clearly shows that it is the White House and not Mr. Lynn who is determining our housing policy.

Even though our constitutional authority to reject unqualified cabinet appointees is clear, one may argue that as a matter of Senate policy, we ought to give the President the widest possible latitude and to permit him to choose the members of his own cabinet. Certainly the President should be given more freedom on cabinet appointments as compared to judicial appointments. But even on cabinet appointments, the head of a major department is not exclusively the President's man as is the case of an advisor on the White House staff. All cabinet jobs are created by statute and cabinet officers are assigned specific statutory responsibilities by the Congress. In the case of HUD, the Secretary is assigned specific responsibility for administering the housing and urban development programs created by Congress.

Mr. Lynn has chosen to subordinate these legal responsibilities to the wishes of the President. He has affirmed the right of the President to suspend our housing programs for 18 months in spite of laws passed by the Congress. Mr. Lynn has said, in effect, that in a conflict between his duty to the President and his responsibility to administer the laws enacted by Congress, his duty to the President comes first. Under these circumstances, Congress has a right, and I believe a duty, to reject his nomination.

There have been few cases where cabinet appointees have been rejected by the Senate, although there have been a number of vigorous challenges. One case involving a rejection bears a striking similarity to the situation in the Lynn nomination. In 1834, President Jackson directed the Secretary of the Treasury to remove Federal funds from the Second National Bank, an act which the Secretary and many Members of Congress considered to be illegal. The Secretary refused, whereupon he was dismissed, and a new man was nominated to take his place, Mr. Roger Taney. Taney was nominated because of his willingness to follow the President's wishes. The Senate debated his nomination and rejected it by a vote of 28 to 18. The precedent established was that the Senate had the right to reject a nominee who was not likely to carry out his legal responsibilities were understood by the Senate. The conflict between the Congress and the President in 1834 over the President's legal authority to withdraw Federal funds is quite similar to the conflict we face today over the President's legal authority to impound funds and terminate programs authorized by the Congress.

Mr. President, I realize the nomination will be approved. I do not wish to delay the Senate.

Mr. JAVITS. Mr. President, first I wish to say that I am disquieted by cuts in the HUD programs as are Senators from States that have big cities generally. Therefore, I wrote to the new Secretary-designate to get his concept of his policies in that regard. I ask unanimous consent to have printed in the RECORD a letter that I wrote to him on January 17, 1973, as well as his reply of January 29.

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

JANUARY 17, 1973.

Hon. JAMES T. LYNN,
Secretary Designate, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. SECRETARY: On January 8th Secretary Romney announced that effective at the close of business January 5th no projects which had not received feasibility commitment letters would be funded for an indefinite time. This policy will cover FHA subsidized housing, open spaces, water and sewer and public facilities loans. Many cases have come to my attention where builders and sponsors of projects have been proceeding with construction on verbal commitments which only await the paper work (ongoing in the pipe line) for the feasibility commitment. In one case all paper work was done by December 4 under the guidelines the letter should have been issued January 4th but in fact was not until January 10th. In other cases the area office had assured the sponsor or builder that the project would be approved but held up for administrative reasons.

My question is will HUD undertake to review all such projects that request it and make exceptions to the moratorium in those particular cases where a de facto feasibility commitment exists, even though not written or where a letter arrived soon after the 5th but could have been issued earlier?

I would appreciate an answer as soon as possible and prior to your confirmation.

Sincerely,

JACOB K. JAVITS.

THE UNDER SECRETARY OF COMMERCE,
Washington, D.C., January 29, 1973.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: This is in response to your letter of January 17th inquiring about HUD policy with respect to limited suspension of certain programs for the remainder of FY 1973.

HUD has announced differing criteria for particular programs affected by the suspension. The criteria were established in an effort to achieve maximum fairness and to reduce inequity. Thus, HUD has indicated that it will continue to process project applications where, in the case of water and sewer grants, open space grants, public facility loans, and college housing projects, there has been a reservation of funds; in the case of public housing projects, there has been a preliminary loan contract approval; and in the case of other subsidized housing programs, a feasibility letter has been given.

At the present time, HUD is surveying its field offices to determine the exact number of projects qualifying for eligibility under these criteria. At the same time, it is attempting to ascertain whether patterns of inequity exist that would require exceptions to the rules. I am advised that HUD is giving careful attention to the concerns you have expressed. At the same time, we recognize that certain problems will inevitably arise when business-as-usual is interrupted.

Sincerely yours,

JAMES T. LYNN.

Mr. JAVITS. Mr. President, I wish to read one portion of the reply that I received because it is very important:

Thus, HUD has indicated that it will continue to process project applications where,

in the case of water and sewer grants, open space grants, public facility loans, and college housing projects, there has been a reservation of funds; in the case of public housing projects, there has been a preliminary loan contract approval; and in the case of other subsidized housing programs, a feasibility letter has been given.

At the present time, HUD is surveying its field offices to determine the exact number of projects qualifying for eligibility under these criteria. At the same time, it is attempting to ascertain whether patterns of inequity exist that would require exceptions to the rules.

Mr. SPARKMAN. Mr. President, I am pleased that we seem to be able to handle this nomination expeditiously.

In the beginning I wish to comment on the remarks made by the distinguished Senator from New York. He referred to Senators from States that have big cities being very much concerned about this. I can assure the Senator that Senators from small States are concerned also. As a matter of fact, one of the first points raised was what it did to farm housing and farm programs generally, another is the water and sewer grant program of benefit to people in small towns who, believe it or not are lacking good clean water to their homes. I am not going to dwell on that or make a lengthy speech.

Mr. President, I support the confirmation of Mr. James T. Lynn as Secretary of the Department of Housing and Urban Development to succeed Mr. George Romney.

The Committee on Banking, Housing and Urban Affairs, of which I am chairman, voted last week 12 to 4 to recommend the President's nomination to the Senate. It is my belief, and the belief of a majority of our committee, that the President has broad flexibility in naming members of his Cabinet and that the Senate, in carrying out its constitutional duties of advise and consent, should reject a Presidential nominee only in rare cases—for example, when the nominee clearly lacks the competence or ability to fulfill the duties of a Cabinet position.

According to information received by the committee, Mr. James Lynn demonstrated his competence as a top-level Government administrator through his performance as general counsel and later as Under Secretary of the Department of Commerce during the last 4 years. His educational background and many years in the practice of law have been outstanding.

The committee questioned Mr. Lynn extensively on several points. Some members felt that his lack of experience, either in the field of housing or in community development, would be a deficiency which would handicap Mr. Lynn in his duties as Secretary. The committee was also concerned about his being named as Counselor to the President in addition to being nominated as Secretary of Housing and Urban Development. Mr. Lynn's responses to questions raised by members of the committee about his lack of housing experience and his proposed double duties seemed to satisfy the majority of the committee. He pointed out that, as the President's Counselor on the broad subject of community development, he will be in a much better position to perform his duties as Secretary of Housing and Urban Development which he believes are so dependent upon developing a close and coordinated relationship with other departments of Government having to do with local governments and urban problems.

Mr. President, I would have preferred having a Secretary with experience in this field, and I have some concern about Mr. Lynn spreading himself so thin, serving both as counselor to the President and as Secretary of Housing and Urban Development. He will have much to learn because, as those of us who have been working in this field well know, the subject of housing alone is intricate and complex, but the field of urban development is even more so and cannot be learned overnight.

The majority of our committee was impressed by Mr. Lynn's capabilities, his interest in his new responsibilities and apparent eagerness to pitch in and take hold of the job as soon as possible. The President has nominated Mr. Lynn for this important post in our Government and we believe the Senate should consent to the President's wishes.

Mr. President, there is one very important matter which must be brought to the attention of the Senate, that is, the recent announcement by the President of an 18-month moratorium on most of our Federal housing and urban development programs. This is a very serious matter involving the very basic constitutional question of separation of powers—the authority of the Executive to impound funds duly appropriated by the Congress.

Mr. Lynn responded to questions by committee members relative to the impoundment to the effect that he was not responsible for the President's order, and that he saw no conflict in fulfilling his duties as Secretary of Housing and Urban Development within a broad policy laid down by the President. He assumed that the President had proper legal advice and precedent for his action.

I do not fault Mr. Lynn for the serious crisis which the President's 18-month moratorium has created in the field of low-cost housing and urban development. I should hope and expect that he will fulfill his promises to the committee to undertake a prompt re-evaluation of the terminated and suspended programs and use his personal influence to reinstate them as soon as possible.

I believe that his confirmation should be approved as promptly as possible to enable him to get on the job and carry out his promises to the committee.

The first shock of the President's proposed moratorium came from a rumor around the end of last year. In an attempt to forestall it, I sent a telegram to the President on December 29 pointing out that a plan to cut off subsidies for housing would be a clear violation of the intent of Congress and the housing laws requiring Federal assistance for the elimination of slums and blight and the provision for a decent home for every American family. It would also represent a breach of faith on the part of our Government to the poor and ill-housed of the Nation and could seriously affect unemployment and the economy.

Mr. President, I ask unanimous consent that a copy of my telegram to the President and the reply thereto be placed in the RECORD at this point in my remarks.

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

DECEMBER 29, 1972.

The PRESIDENT,
The White House:

Urgently request that you reject reported White House plan to cut off Federal housing subsidies as of January 1, 1973.

Such a plan would be a clear violation of intent of Congress as expressed in Appropriation Acts and of the 1949 and 1968 housing laws requiring Federal assistance to eliminate slums and blight and provide a decent home for every American family. Without Federal assistance, little hope for decent housing can be held out for six million families still living in substandard housing.

The proposed plan would not only represent a breach of faith on the part of our government to the poor and ill-housed of the nation, but it would create unemployment and have a disastrous effect on the housing industry and the nation's economy. Without subsidized housing, the nation's cities would be frustrated in carrying out their public improvement plans.

Without a reasonable notice, any sudden cut-off of commitment authority would be financially disastrous to the thousands of sponsors who have already invested heavily in preparing plans for housing projects.

My Committee plans to have extensive hearings on the need for subsidy programs early in the next Session, and I strongly urge that no cut off be made before completion of the hearings. Confirmation hearings are also planned on the new Secretary of HUD. Surely, before we schedule confirmation hearings, we should have a response from you on the Administration's intentions with respect to the proposed freeze.

JOHN SPARKMAN,
U.S. Senate.

THE WHITE HOUSE,
Washington, D.C., January 15, 1973.

Hon. JOHN J. SPARKMAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SPARKMAN: The President is out of the city and has asked me to thank you for, and to respond to, your recent telegram regarding Federal housing subsidies.

As you know, Secretary Romney recently announced a temporary suspension of new commitments for subsidized housing. This temporary halt is not intended to spell the termination of the programs, but instead to provide an opoprtunity for a thorough, serious joint effort by the Congress, the Administration and the public to reevaluate the current programs, to define clearly the Federal role in housing, and to design better ways of fulfilling that role. The object is to have better programs; not to abandon the Federal responsibility in housing. The suspension will stop further spending commitments, some of which run as long as forty years, until we can assure the taxpayer that his money is indeed being spent in ways that effectively and efficiently meet the housing needs of the nation.

Five central concepts run through the President's decision:

First, in transition. This is not an abrupt cessation of subsidized housing production. Subsidized housing starts will continue at an annual rate of about 250,000 for the next 18 months, and total starts in calendar year 1973 are expected to exceed 2 million for the third year in a row. Based upon the present pipeline of approved applications and other program commitments to be carried out, the

rate of subsidized housing starts for the next eighteen months should continue at about the same rate it has for the past twelve months. Estimates point to an excellent year in the building industry, and we believe that the continued strong trends provide a particularly timely opoprtunity to initiate significant housing reforms while minimizing the economc consequences. The rate of subsidized housing we propose should ease the impact and prevent start-up problems for alternative housing programs which may begin later.

Second, is honoring our commitments. The President intends to meet the commitments he has made to the elderly, the Indians, disaster victims, and local government programs, among others. Commitments linked to the other Federal activities and programs will be honored or met by other proposals. Public housing operating subsidy payments will also continue while the program is studied and alternative proposals prepared.

Third, is fairness to the needy and to the taxpayer. The President is committed to seeing that the Federal government meets its legitimate responsibility in housing. But the solution must be equitable; it must serve the taxpayer; it must serve the needy. The bulk of the criticism of the Administration's recent action stresses that the poor will bear the brunt of the action. Most critics hold the misguided view that the poor are actually benefiting from all the programs now. This is the cruelest aspect of the present system—it does not serve the intended beneficiaries, the poor. No one more than they realize that the programs have not improved greatly either their housing or their living environment. Instead, in many cases, the programs have created false expectations, more financial hardships and disappointment. The President is determined to find alternatives that meet the real needs in an effective and efficient way that is fair to the recipients and to the taxpayer.

Fourth, is the need for fundamental reform. A series of evaluations by the Congress, the Administration and others has revealed a central theme—the program structure we have now cannot possibly yield effective results even with the most professional management. There is mounting evidence that the present programs, for the most part, have proven inequitable, wasteful, and ineffective in meeting housing needs. They have proven inadequate and in most cases counter-productive to the greater solution of our urban and rural problems. We do not believe we should continue business as usual, merely piling more of the taxpayer's money on top of the $100 billion already committed in these programs over the next forty years, unless these programs promise improvement. Our efforts in housing are part of the President's broader objective of redirecting our basic approach to urban problems from one of devoting additional billions to old discredited solutions, to one of developing fundametnal broad new approaches at all levels of government. This broader approach involves transportation, jobs, health, and law enforcement, in addition to housing and other elements necessary to meet our urban problems.

Fifth, is cooperation and broad consultation to develop alternatives. The President regards this action as a first step in a joint effort by all of us to reevaluate and to seek solutions to our housing problems. We welcome your upcoming hearings, and we offer our assistance to you in that effort.

All of these concepts apply similarly to Community Development. As you know, the President has for the past two years advocated uniting the community development programs into an Urban Community Development Revenue Sharing proposal, a version of which was passed by the Senate last session. He remains firm in this commitment and will reintroduce the revenue sharing proposal, at a significant level of funding, in his upcoming budget message. Until the development activities are folded into the revenue sharing proposal, there will be a temporary suspension of new commitments for water and sewer grants, open space and public facilities loans. Commitments already approved will proceed, as will refunding of urban renewal and Model Cities for the balance of the fiscal year. Prior to the submission of the actual UCDRS legislation, we hope to solicit your suggestions regarding changes and additions to the bill based upon your experience with it in the last Congress.

Fundamental reform remains a keynote of the President's domestic program. Simple program retooling or cosmetic legislative amendments to the existing programs will not move us toward true reform in housing. The Administration's recent actions and proposed course will achieve that reform. The ultimate goal of this reform is to produce a set of effective and efficient programs, at all levels of government, that truly meet the housing needs of the nation. I know that you share that objective, and we look forward to joining you in working toward that end.

Sincerely,

KENNETH R. COLE, Jr.,
Director, Domestic Council.

Mr. SPARKMAN. Mr. President, as we all know, the President issued his order, and the 18 months moratorium became effective January 5, 1973. HUD Secretary Romney made the announcement in Houston, Tex., on the occasion of his address at the annual meeting of the National Association of Home Builders on January 8. I was on the platform with Mr. Romney at that occasion and had the opportunity of discussing the proposed cutoff with him. Obviously, he was acting under orders of the White House and could not modify the announcement. He did recognize, however, that such a cutoff could be financially disastrous to many sponsors who, in good faith, have been proceeding with the programs and had invested heavily in preparing plans. He promised to have his staff look into these hardship cases and seek adjustments in the order to minimize the impact.

Mr. President, the housing moratorium is one of the most far-reaching Executive actions affecting our economy and the welfare of our people that I can recall in my 36 years in the Congress. It is particularly unique because of the arbitrary unilateral action of the Executive to terminate or suspend programs duly authorized and funded by the Congress. As far as I know, no one in the leadership in the Congress was consulted or even notified in advance of the Presidential order. Secretary Romney was gracious enough to inform me of the order about 1 hour before he announced it in Houston, but I know of no other ranking Member of Congress who was consulted.

Mr. President, I doubt that most Members of the Senate are aware of the extent and seriousness of this action. Let me refer to a table in the budget message on the suspension or termination of HUD programs. The title of this table is "Cutoff Dates for Suspended or Terminated HUD Programs."

Mr. President, would you believe it? Every substantive HUD grant program on the books is being either terminated or suspended—eight of them as of January 5, 1973, and the other seven programs as of June 30, 1973. There is nothing in this table which refers to the necessity of prior authority of the Congress in terminating or suspending these programs.

I ask unanimous consent that a copy of the table be placed in the RECORD at this point.

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—CUT-OFF DATES FOR SUSPENDED OR TERMINATED HUD PROGRAMS

	Action	Effective date (1973)
Housing production and mortgage credit programs:		
Assisted housing (rent supplements, secs. 235 and 236, and public housing)	Suspended	Jan. 5
College housing	Terminated	do
Nonprofit sponsor assistance	Suspended	do
Housing management programs:		
Public housing modernization	do	June 30
Community development programs:		
Model cities program	Terminated	do
Neighborhood facilities	do	do
Open space land	do	Jan. 5
Water and sewer facilities	do	do
Urban renewal programs	do	[1] June 30
Rehabilitation loans	do	do
Public facility loans	do	Jan. 5
Community planning and mangement programs:		
Community development training and fellowship programs	do	June 30
Supplementary grants for new communities	do	do

[1] Termination date for new approvals. An appropriation request of $137,500,000 will be used in fiscal year 1974 primarily to close out urban renewal projects approved in prior years.

Source: Office of the Secretary, Office of Budget, Jan. 29, 1973

Mr. SPARKMAN. Mr. President, there are two basic issues here. One is authority of the Executive to suspend, terminate, or impound funds or programs duly authorized by law. I am sure that Members of the Senate are very much aware of this issue and recognize the necessity of facing up to and developing a policy on how to cope with it.

In the past, Presidents have impounded certain funds due to contingencies that arose subsequent to their appropriation by the Congress. Although individual Members often disagreed with the judgment used by the President in such cases, the Congress has not felt the need for specific action to clarify the authority. This year, I believe it is different. The extent of the Presidential action, not only in impounding funds, but in outright termination of statutorily authorized programs, raises a broader question. I am pleased that Senator ERVIN'S Judiciary Subcommittee and Senator CHILES' Government Operations Subcommittee are conducting hearings on this matter which may lead to a resolution of it.

The other issue is, of course, the effect of the elimination of these programs on our people and the damage to the progress that we believe is being made on the elimination of slums and blight in our cities and on the attainment of a decent home for every American family.

Contrary to criticisms by some of our housing and community development programs, I believe they have been ef-

fective and have, for the most part, served their purpose. The quality of housing for low- and middle-income families in this Nation have steadily improved over the past 20 years.

We have been able to eliminate many deplorable slums and I believe have made reasonably good progress toward the national housing goal.

I know there have been weaknesses in some of our housing and urban development programs. Some of these are due to deficiencies in the law but we are constantly alert to such matters and have corrected them as they are brought to our attention.

I do not deny that considerable more work needs to be done and, in fact, the 1972 housing bill that passed the Senate but failed in the House had many outstanding improvements to make the subsidy programs more efficient and effective in solving the housing problems of the Nation.

The most serious blasts have been leveled at the FHA interest subsidy programs which for the most part have been motivated by apologist for maladministration in HUD and by those who are unduly concerned about the long-range budget impact. The implications have been that they are not effective and are not serving the family groups for whom they were intended, and are wasteful of subsidy funds.

Most of these charges are false. For example, everyone has read about the serious FHA foreclosures in the run-down areas of Detroit. Misinformation was spread that the fault was in the FHA section 235 interest subsidy program, and no one from the administration took the trouble to correct the record that it was not the section 235 program but the nonsubsidized section 221(d)(2) program. This latter program requires meticulous staff administration in inspecting older homes and in counseling lower income families seeking homeownership. This was not done in the Detroit FHA office.

The problem was not the design of the basic law but the administration of the law. It was demonstrated time and again that, if the HUD staff had functioned as required, the massive defaults would never have occurred.

One of the most effective programs for the people in small towns cut off by the President's order is the water and sewer grant program. I know of no scandal or substantive criticism ever made in this program and it is one of the most desirable program on the books to help so many people get clean water. I can not understand why it would be cut off.

Mr. President, without belaboring further the reason for the President's moratorium action, I believe the question now is what the Congress can do about it.

Our committee was told by Mr. Lynn that he would spend considerable time reevaluating the programs and come back to Congress sometime in the next 18 months to propose new programs. We cannot wait for this. Our cities and our people who need these programs deserve better treatment than that.

We are proposing, therefore, to take the initiative and reevaluate the programs and come forth with a legislative solution. I believe the administration will cooperate, particularly if the final legislative package includes the block grant community development legislation which was included in the Senate-passed 1972 housing bill. This legislation is very similar to the President's special revenue sharing proposal which he is seeking.

The solution has a short-run and a long-run dimension. I see three important steps in pursuing this course of action:

First. To work with the administration for a short-run solution to clarify the January 8 impoundment order, to help provide relief for hardship cases and possibly to win concessions for meritorious and productive cases.

Second. To conduct oversight hearings to evaluate existing subsidy programs, to reestablish the level of need for subsidies and to formulate legislative solutions to meet the need. These are tentatively scheduled for late March or early April.

Third. To conduct legislative hearings on 1973 housing and community development legislation, followed by timely passage of a bill in the Senate.

After the Senate completes its action, the plan will require similar action by the House of Representatives, timely cooperation by the Appropriations Committees, and full public support to assure a Presidential signature on a 1973 housing bill and his agreement for release of funds to reinstate housing assistance programs for low- and moderate-income families, and to start up the new community development block-grant program.

Mr. President, this is an ambitious undertaking and the committee will need all the help it can get. At the present time, the staff of the Housing and Urban Affairs Subcommittee is compiling information relevant to the issues raised by the administration in cutting off the programs. Such information will be made available to the committee members in advance of public hearings which, as I stated, are scheduled for late March or early April. It is hoped that the material will form the basis for questioning of a panel of expert witnesses, representing a cross section of housing consumers, the public in general, and housing and urban development practitioners.

The results of the hearings will determine the course and timing of the committee's 1973 legislative effort. I hope that, by summer, we will be well on our way to writing a 1973 housing bill.

I just wanted to say that I do not place the blame on Mr. Lynn. I hope to goodness he will not become the man to wield the ax. Of course, I am optimistic by nature. I am hopeful we will be able to work this out and I believe we will.

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

Mr. SPARKMAN. I yield.

Mr. TOWER. Mr. President, I rise in support of the confirmation of the nomination of Mr. James T. Lynn to serve as Secretary of the Department of Housing and Urban Development.

Prior to his appearance before our committee for the confirmation hearing, I had the opportunity to visit with Jim Lynn on several occasions to discuss the critical position for which he has been nominated—its functions and responsibilities. These discussions served to convince me of his dedication to meet the challenges of that important office. His sense of commitment was unquestionably apparent.

The problems which currently plague our Nation's housing programs are substantial, and are both statutory and administrative in character. The task of the HUD Secretary will not be an easy one. In many instances it will most certainly be a thankless one. It will require a man who possesses proven managerial skills, who is capable of innovative thinking, and who has the strong will essential for one who must make the tough administrative decision. I am confident that Jim Lynn satisfies each of these requirements.

My assessment of the nominee's suitability is not based on impression alone. There is basis in fact. Having proven himself a skilled attorney in private practice, he entered the public arena for testing. While serving at the Department of Commerce during the past 4 years—half of that time in the post of General Counsel and the remainder, to this date, as Under Secretary—Jim Lynn has distinguished himself as a respected public servant and has established the deserved reputation as one of considerable intelligence who has evidenced unbounded enthusiasm in confronting the diverse tasks of his office.

Mr. President, some will criticize this nomination today expressing concern that the nominee, during the confirmation hearing, failed to provide instant solutions to the severe problems which hinder our Nation's housing effort. No one has any instant solutions to the Nation's housing problems. Certainly we cannot hope to deal with such complex problems ourselves until we first have the resources of the Department of Housing and Urban Development under the skilled direction of a capable administrator. Perhaps for the sake of accuracy, the critical remarks should be directed toward the Congress. No less than half a dozen congressional committees have examined our housing programs in recent months seeking answers to the critical questions which have arisen relative to their effectiveness in serving those most needy. Many questions have been asked—many scholarly critiques have been written—many lengthy reports have been prepared—but few answers buttressed by concrete proposals have made their way to the surface. Nonetheless some insist that the nominee possess all the answers.

Mr. President, I have stated that our Nation's housing effort suffers not only from statutory ills but also administrative deficiencies. HUD Secretary George Romney, on more than one occasion during both the 91st and the 92d Congresses appeared before the Housing Subcommittee to request—in fact "plead"—for congressional action to consolidate existing housing programs in order that they might be more effective. He openly and freely admitted that they were virtually

impossible to administer in their current state. Unfortunately, his words have proven accurate.

This past year, we acted in the Senate to ease the administrative tangle, by passing the Housing and Urban Development Act of 1972. Passage of this legislation by each House would have been a significant step toward meeting the administrative problems of which Secretary Romney complained. Regretfully, the House of Representatives failed to pass similar legislation, thus the administrative problems remain. The morass of housing legislation—unclear, confusing, virtually immune from effective administration—remains on the statute books. Hopefully in 1973 a housing act will emerge from the Congress providing the essential consolidation. Until that moment, many of the administrative problems will plague Jim Lynn even as they did his predecessor. Much of the burden rests squarely on the Congress.

In my judgment, President Nixon has made a wise selection in naming James Lynn, a man of unquestioned character and boundless ability, to fill the important position of Secretary of Housing and Urban Development. I urge the confirmation of his nomination by the Senate.

Mr. President, some comment is, indeed, appropriate at this point in view of the effect of the administration's budget requests for fiscal year 1974 on programs administered by HUD.

I will myself be very involved in reviewing the various HUD programs this year in our Housing Subcommittee. We will effectively have to express a committee judgment of the budget proposal in the legislation we report this year, and where the committee differs with the administration substantially on particular programs, we may recommend to the Senate continuation of them. I do not want to prejudge the determination of where we might differ with the administration until we have held hearings, examined the ability of the community development revenue sharing concept to substitute totally for the various HUD programs now in existence, and assessed the problem of any timelag that may be involved in getting community development revenue sharing funds into the pipeline to replace the HUD programs proposed to be terminated.

Again, may I reiterate that it is important that we confirm the Department head with dispatch so that we have someone to come here and talk to us concerning HUD programs because otherwise we have no one with whom we can communicate. I join the chairman in expressing the hope we can take an in-depth, objective look at what has happened and come up with suggestions of our own and assert the will of Congress.

Mr. SPARKMAN. I join in that statement. I think we made it rather clear to Mr. Lynn the other day—all of us did—how we feel about cuts in housing, in community development, and rural development.

In the message that came back to committee, it will be recalled that he made some reference to reevaluating the housing program and coming up with new ideas, and there was some little veiled threat in there about not doing things until we have enacted special revenue sharing. The Senator will recall we wrote a community development provision in the 1972 housing bill which meets the President's special revenue share specifications. Unfortunately that bill did not become law.

Mr. TOWER. I recall very well. As a matter of fact, our committee was the first committee, I believe, to act on a special revenue-sharing proposal—community development special revenue sharing.

Mr. SPARKMAN. The Senator is correct.

Mr. TOWER. The bill was stymied in the House. I hope we again include the revenue-sharing concept in our bill. It is up to us to decide to what extent it can replace categorical grant programs.

Mr. TAFT. Mr. President, I share the questions with regard to the housing freeze that have been expressed by many Senators today. I have expressed my concern to Mr. Lynn.

I voted for Mr. Lynn in the confirmation hearings. He, of course, has been named by the President to carry out the President's programs. I do not feel that trying to judge him by the current freeze is a sound way to go about the matter of determining whether or not he is qualified to be Secretary of Housing and Urban Development.

I do not think I should leave unchallenged the statement that he is inexperienced or that he is unqualified for the job. He is a young man of exceptional capability and experience. Not only has he been named by the President for this job, but also he is one of the four counselors named by the President with whom others will communicate with regard to the whole area of community development.

He is a resident of my State. I know him personally and I know his reputation. He is a man of great ability. He came first to Washington from his law practice to become General Counsel for the Department of Commerce, where he did an outstanding job. Then he became Under Secretary of Commerce and carried out his duties with great expertise. I think the success of the minority business enterprise program has been in large part due to his leadership, and I think it was his skill in handling problems at the Department of Commerce which brought him to the attention of the President and led to his current appointment.

I do not think that anyone should feel that this man is not a topflight, qualified person to become one of the most important members of the President's Cabinet.

Like many of my colleagues, however, I am deeply troubled about the conditions under which Mr. Lynn takes office. The need for economy and a spending limit, the confusion of multiple, uncoordinated housing programs, and the strength of the present housing market all help to justify a reassessment of Government programs and procedures in this field—but they do not call for throwing out the baby with the bath water.

I am particularly concerned that the blanket nature of the shut-off action will result in the denial of assistance to some persons in areas most in need of it, even in instances where the assistance would have been handled by groups who have been carrying out community improvement programs innovatively and effectively. For example, the Dayton area's regional planning commission determined about 3 years ago that 14,000 additional units of low- and moderate-income housing were urgently needed in the area. The Commission then developed a housing dispersal program that still constitutes the most advanced effort to provide for an areawide mix of housing in any American metropolitan area. Last year Dayton was named one of 20 experimental "planned variations" cities, which gave it more flexibility in the use of community development funds. The State of Ohio has responded to these innovations by working with the Dayton area to provide more coordinated and responsive State assistance.

In view of both the tremendous need for housing assistance and the importance of encouraging and monitoring Dayton's experimental methods of meeting its needs, severe cutbacks in assistance to the Dayton area would seem to be a tragic development. Yet Dayton has been hard-hit by the cutbacks. In the area of housing alone, it would appear that the construction of almost 4,000 additional units for low- and moderate-income Daytonians will be held up as a result of the reduction in HUD funds.

Tremendous hardships will also be inflicted on builders, developers, and others who invested heavily in HUD projects because the Government gave them every reason to believe that the projects would be approved. Earlier this week a representative of a nonprofit housing group stopped by to inform me that his organization has invested close to $300,000 in a rental housing project which HUD had approved informally but not officially prior to the "freeze." His group is trying to operate in the Huff area of Cleveland, where major riots have started and housing needs are so severe that upon completion of its last 38-unit project, the group was besieged with over 500 rental applications. This organization has been a successful provider of low-income housing in the past, but its operations will be in great jeopardy if no relief from the shut-off is granted.

Builders who have been using the "over the counter" method of dealing with HUD will also lose considerable sums in some cases. In areas such as Dayton, these builders have constructed housing designed for the subsidized program after receiving HUD commitments under the unsubsidized program. The past procedure has been that the formal reservation of subsidy funds would take place upon completion of construction, but the freeze has left some of these builders out in the cold. I was recently visited by a Florida developer whose company had obtained commitments un-

der the unsubsidized program and contracted for modular homes before he was informed that no new subsidies would be available. His land is located in an area suitable only for the subsidized program, and there is no other market for the modular homes he has contracted for.

While the Federal Government certainly should not approve applications regardless of the need for proposed housing just because private individuals have made sizable investments, we must recognize that some private investors have been treated unfairly as a result of the suspension.

In view of these problems, I hope that exceptions to the suspension will be allowed where real hardships would otherwise be inflicted upon a community whose developers or development organizations have been doing an exceptional job. In addition, special consideration should be given to those who are really suffering as a result of investments which were made because they could have definitely expected assistance if HUD's normal operating procedures had been followed. HUD has informed my office that the possibility of exceptions is presently being considered, and I hope that the Agency will give this matter its immediate and concentrated attention.

An enlightened exception policy would alleviate the most inequitable and counterproductive aspects of the freeze. At the same time, Congress and the administration should continue to work for legislative and administrative improvements in this area so that adequate housing and community development assistance can be restored as soon as possible.

Mr. President, when Mr. Lynn testified before our committee, I submitted several questions to him. I now have his replies, which were returned too late to be inserted in the hearing record. I ask unanimous consent that my questions and his replies be printed in the RECORD at this point.

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

SENATOR ROBERT TAFT: QUESTIONS AND ANSWERS

1. Q. Are you in favor of increasing our efforts to preserve existing housing and neighborhoods before they deteriorate substantially, or do you believe that the nation's housing needs can be met by almost sole reliance on new construction and substantial rehabilitation?

A. I note that the Third National Housing Goal Report to the Congress indicated that "preservation [of the present stock of 69 million housing units] . . . through timely maintenance, repairs, additions, alterations, and even major rehabilitation is clearly a far less expensive process than permitting the housing to deteriorate to such condition that it must be totally demolished and replaced with new construction." The Fourth Annual Report went on to raise two specific questions—"What should be the balance between new housing production and the preservation of existing housing? How should assistance in new units be balanced against assistance in existing units?"

I look forward to formulating answers to these questions in the coming months.

2. Q. In the 1970 Housing and Urban Development Act we required that 30% of all new public housing annual contributions contracts should be for leased housing, because we recognized that this program is less visible to the community and thus does not have the sociological stigma attached to conventional public housing projects. Would you support efforts to increase the importance of the leased housing program relative to conventional public housing?

A. I understand that the Leased Public Housing Program—both for existing housing and newly constructed housing—has been the subject of considerable evaluation by such organizations as the Urban Institute, the MIT Consultants to the Housing Subcommittee of the House Banking and Currency Committee, the Real Estate Research Corporation's study of Federal housing subsidies and a study released by the Joint Economic Committee of the Congress. I will be reviewing the findings of such studies as part of my own evaluation of the subsidized housing programs.

3. Q. In his January 8th address to the homebuilders, Secretary Romney emphasized that many public service needs cannot be met within the present fragmented, Balkanized structure of local government. He noted that some areas have thousands of overlapping jurisdictions. Would you favor major efforts to encourage localities to seek methods of meeting local needs and solutions to local problems which are more rationally coordinated and considered on an area-wide basis?

A. Although this whole question is extremely complex, my view at this time is that Federal efforts should be keyed to assisting the States to address the challenge of achieving a more rational local government structure.

4. Q. What steps should be taken to improve housing for our nation's elderly? Would you favor special assistance for those elderly citizens who cannot afford to make needed home repairs?

A. Improvement of housing for the elderly involves the physical quality, location, and design of the housing units as well as such essential services as health care, security, transportation, communications, and welfare which are not strictly tied to housing. In his Message on Aging, March 23, 1972, the President proposed a comprehensive strategy for meeting these needs of the elderly, and I understand that HUD has begun to play its part in implementing that strategy. For example, an Assistant to the Secretary for Programs for the Elderly and the Handicapped has been appointed for the purpose of assessing the housing programs with particular attention to their responsiveness to the needs of the elderly. You may be sure that I will be giving close attention to the special needs of the elderly as the overall evaluation of Federal housing programs goes forward.

5. Q. According to a HUD audit of 1970, 24% of newly constructed FHA Sec. 235 homes and 39% existing Sec. 235 homes had substantial defects. What steps do you advocate for improving the FHA's job of appraising so that the government does not continue to allow unsuspecting people to become owners of homes which are falling apart?

A. I understand that following the HUD audit in 1970, the Department took a number of steps to tighten up its inspection and appraisal procedures. I intend to take a fresh look at the effectiveness of these procedures in order to assure that buyers are not victimized.

6. Q. The heavy workload in FHA insuring offices causes processing delays and perhaps contributes to sloppy appraisal jobs. Do you believe that it would be feasible to reduce this workload by transferring some of the processing functions to lenders, assuming that such transfers were accompanied by safeguards to help insure that lenders would do a good job?

A. The suggestion has often been made that private lenders could bear a larger share of the processing burden for FHA insurance in an efficient manner. These possibilities will be reviewed with an eye toward the necessary safeguards that might be required to accompany any such transfers. I cannot predict prior to such a review whether or not these suggestions will ultimately prove to be feasible.

Mr. SPARKMAN. Mr. President, I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I merely wanted to add my word of testimony to that just made by the distinguished Senator from Ohio. During the past 3 years at least I have, as the ranking minority member of the Committee on Commerce, had to work with Mr. Lynn quite frequently and continuously. He is one of the keenest and ablest minds that I have had dealings with for a long time. He has great ability. In addition to that, I found him absolutely fair. His word is completely dependable. He also is a great legal student and has a profound respect for and knowledge of the functions and powers of the Congress and of the Senate. I think he will make a very excellent Secretary of Housing and Urban Development.

Mr. WILLIAMS. Mr. President, as Senators very well know, a majority of the Members of Congress are currently engaged in a serious dispute with the Executive over the question of division of powers in our Federal Government.

I will say that I am among those who have been vocal in our contention that the current administration has exceeded its constitutional authority by a large margin.

In my judgment, the President is guilty of an outrageous abuse of the powers of his office because of his consistent refusal to implement programs mandated by Congress.

In its impoundment of funds, this administration has far exceeded any similar actions taken by any preceding administration.

Traditionally, impoundments have been made as a routine method of insuring orderly and efficient handling of appropriated funds. On occasion, they have been used as temporary responses to serious and unexpected budgetary problems, but it is difficult to find a precedent for the use which the current administration has made of impoundments.

Under the Nixon administration, impoundments have become a tool to make policy. Furthermore, they have become a means of circumventing and contravening the lawful mandates enacted by Congress. And, in my judgment, the way in which this administration has utilized its power to impound appropriated funds is illegal.

Now, these impoundments have touched a wide variety of very important programs authorized and funded by Congress, but nowhere have they had as much impact as on the programs administered by the agency involved in our deliberations today—the Department of Housing and Urban Development.

The President's freeze on programs of subsidized housing, community development, urban parks, and water and sewer

grants threatens to cripple most of the functions of HUD. These are programs which were carefully developed by Congress to meet very real and very urgent needs of millions of Americans. But the President has now unilaterally decided that they are without merit and should not be continued.

He has informed us that no new commitments will be made in any of these programs for at least the next 18 months. And the Congress has been bluntly informed that nothing will be done in these areas unless, and until, we enact the President's proposed special revenue-sharing program.

In my judgment, that ultimatum amounts to legislative blackmail.

Mr. President, I know that no committee of Congress is more deeply alarmed by the administration's actions than is the Committee on Banking, Housing and Urban Affairs, of which I am privileged to be a member.

It was, of course, our committee which considered the nomination of Mr. Lynn to be Secretary of Housing and Urban Development.

And I will say I am personally very grateful for the diligent and searching inquiry into this nominee's views which was directed by our distinguished chairman.

That inquiry quite naturally embraced the subject of Executive impoundments, and, although Mr. Lynn was courteous and gracious in his responses, he conceded he had not researched the legal justification for the administration's actions.

However, Mr. Lynn did make it clear that he will support the President's policy, and faithfully implement it; and I was dismayed to see that he agreed specifically with the freeze on new commitments for low-income housing.

As a result, I felt compelled to register my strong objections to these policies by dissenting from the committee's favorable recommendation on Mr. Lynn's nomination.

However, I think it has become clear that this battle over Executive impoundments will be fought and decided on a level higher than that of a confirmation vote.

Regardless of whether Mr. Lynn is confirmed, this issue is going to be settled either by the courts or through new legislation.

As a matter of fact, the views elicited from Mr. Lynn during confirmation hearings underscore the necessity for settling the impoundment issue in one of those ways.

Mr. Lynn, of course, must be loyal to the Chief Executive who appointed him. However, I certainly hope he will come to realize that he owes even greater loyalty to the millions of people who comprise the constituency of the Department of Housing and Urban Development.

Moreover, he must be an advocate within the administration of programs to meet the needs of that constituency.

And if the issue of impoundments and freezes is resolved, as I expect it to be, I hope and anticipate that Mr. Lynn will be quick to endorse whatever change in policy is indicated.

Mr. BENNETT. Mr. President, today we have the nomination of Mr. James T. Lynn before us for our advice and consent to the appointment of Secretary of the Department of Housing and Urban Development. It is our responsibility and privilege to carefully examine Mr. Lynn's qualifications for this position. Indeed, if that were not true, there would be no reason for such nominations to be brought before the Senate for its approval.

In making our decision, I believe that we should be sure that Mr. Lynn has the capacity to perform and the dedication to serve in this office for the betterment of our Federal housing programs in order that we might meet the goals which have been set by the Congress to make available a decent home and a suitable living environment for every American family.

On last Monday, a letter was sent to Members of the Senate suggesting that the hearings before our Banking, Housing and Urban Affairs Committee on Mr. Lynn showed that he lacked "the experience in urban affairs and the sense of commitment we have a right to expect in a HUD Secretary." It was also stated in the letter that "the only area where Mr. Lynn was clear in his views was that he agreed with the President's decision to impose a moratorium on our low income housing programs." Attached to the letter were excerpts from the hearing record which were intended to support these statements.

Mr. President, I regret that it is necessary to discuss these excerpts and these charges but I know that Members of this body do not have time to read the full hearing record which is over 60 pages in printed form. Because of this fact, I believe it is important to bring the charges into a correct perspective so that a realistic judgment can be made on the nomination.

The fact that the nomination is before the Senate indicates that a majority of the committee supports it. The committee vote was an overwhelming 11 in favor, four opposed, and one absent. This vote was based on the fact that members had the opportunity to carefully question Mr. Lynn and listen to the entire hearing proceeding before the vote.

It is suggested that Mr. Lynn lacks the sense of commitment we have the right to expect in a HUD Secretary. Just what is his response to such a question? The chairman of the committee, Senator SPARKMAN, asked just such a question, and I quote the whole question along with Mr. Lynn's answer:

Senator SPARKMAN. May I say that in the letter from Mr. Martin, he, on behalf of the association of which he is president—I believe it consists of about 6,500 home builders or people engaged in the home industry in one way or another, they endorse Mr. Lynn for this job and they know something of his ability and believe he will work conscientiously at it. So there is nothing in here derogatory to the Secretary's confirmation.

I believe that is about all that I have.

Well, may I ask just this general question: Would you give us some idea, some brief statement as to just what your feeling is with reference to the importance of housing and the effect that this cutback of the President's might have, or what your thoughts may be as to what we can do to make certain we can have a steady flow of housing to take care of the needs of the lower income people, and to continue toward that goal of making a decent home and a suitable living environment available for very American family?

Mr. LYNN. I appreciate the opportunity, Mr. Chairman.

I think if you go back about a month or so ago, the only statement I had for the press at the time the President announced the appointment was that I wanted to do all I could to further that goal of the decent home in a suitable living environment.

Senator SPARKMAN. I remember seeing that.

Mr. LYNN. That is indeed a key mission, a very important one, and worthy of very great attention, suitable living environment carries you over into the area of urban development most surely and gets you into many of the issues that we face today in that area.

I would like to say at the outset that the question is not dedication to the principle. The President is every bit as committed as I am—most committed—to the precept of a decent home and a suitable living environment. The question is, what can we do best? How can we best bring about progress in the best way toward that goal?

Mr. President, what more can one be asked in the way of commitment than to do all he could to further the goal of a decent home in a suitable living environment?

Mr. President, I believe it is appropriate to discuss the questions and the answers which are purported to be the views of Mr. Lynn and the basis on which it is suggested that we turn down his nomination.

First. None of the questions are actual quotes from our hearings.

Second. None of the answers are complete answers from our hearings. Furthermore, in my opinion, it is obvious that the excerpts were not intended to give a balanced picture of the responses. Nor is it accurate to state that he made his views clear on only one issue as has been suggested.

Question 1. Will Mr. Lynn invoke executive privilege in his role as Presidential counselor?

The answer used in the letter sent to us is intended to make one believe that Mr. Lynn did not answer this question. On the contrary, at least four times during our hearings, Mr. Lynn specifically stated that he would come before our committee when requested. The first such reference was the first question asked by the chairman following the biological sketch of Mr. Lynn on page 7 of our hearing.

Senator SPARKMAN. Now, Mr. Lynn, the Democratic Conference recently adopted a proposal that we shall take up with each person appearing before us. This applies to all the committees of the Senate—the question of their willingness to come before appropriate congressional committees and to give testimony and to discuss with them matters that may be of concern.

Are you willing to say that you will appear before this committee, when we want you to, in order to discuss matters of mutual interest and concern to us?

Mr. LYNN. Of course, Mr. Chairman. I have been in Washington now for 4 years; most of my testimony has been before other committees but I think if you check with them, there has never been any reluctance on my part.

The chairman continued that Mr. Lynn would be one of three counselors to the President and asked for a response on his willingness to testify in that ca-

pacity. The entire colloquy is on page 8 of our hearings but it is obvious from the following quote that Mr. Lynn specifically said that he would appear in that capacity.

Mr. LYNN. Put it this way: The President made it very clear in his statement anouncing the counselors that what he was doing was trying to organize the situation from the executive branch standpoint as it faces the White House. He was not intending in any way to interfere with or change the relationships between those departments and the Congress.

There is, however, an effect of what he is doing on the congressional side and it is an effect which actually enlarges Congress' opportunity to have people come before the Congress. Before the President put this system into effect, the situation was that you had people working in the White House as White House people with no other responsibility who attempted to perform this kind of a coordinating function along the lines of goals that we set for ourselves.

That was a situation where the immunity from testimony, I guess, ran with the person; at least it was so considered.

With this new setup that we are going to try, it will be a situation where if I do become involved in an issue in this coordinating role, in this effort to work out cooperatively with other departments solutions to some of our major problems, I am available to testify before the Congress with respect to such issue.

Senator SPARKMAN. That is exactly the point I was driving at. You expressed it much better than I could.

Mr. LYNN. I doubt that.

Senator SPARKMAN. I was down at the White House when the announcement was made to us. Several of us were there at a breakfast. We were given a description of duties and so forth. The only reason I bring up the point is that we have had some difficulty with witnesses on various committees, committees on which I serve. Not just this committee but on other committees. We have never had much of a problem in this committee. But we have had difficulty on this question of executive privilege, when it should be claimed, when it should be allowed.

I just wanted to bring this up because you are being placed in a position of wearing two hats.

Mr. LYNN. That is absolutely right, sir.

Senator SPARKMAN. You are wearing a hat in HUD subject to confirmation of the Senate; therefore as I construe it, that makes you answerable to Congress.

Mr. LYNN. That is right.

Senator SPARKMAN. Now, with this other hat, it might place you into the twilight zone, and probably will, of executive privilege.

I want to be certain that you are willing to appear before Congress and you have just made the statement you would be——

Mr. LYNN. Yes.

Then Senator BROOKE discussed the matter in even more detail. On pages 9 and 10 of our hearings, the answer was given from which the quote, used as an excerpt against Mr. Lynn, was taken. I include the excerpt in content and point out that the only reservation Mr. Lynn had was on a specific communication or conversation with the President and he did say that he could not say that he would be free to disclose such communications to the committee. He did say, however, that he felt the committee had the right to call him to testify on his views on the subject.

Mr. President, I ask that the colloquy at the end of page 9 and at the beginning of page 10 of our hearings be included at this point in the RECORD.

Senator BROOKE. I can see the question sometimes being relevant to both; to your duties as Secretary of HUD and to your duties as counselor.

Under those circumstances would you invoke executive privilege or not?

Mr. LYNN. I think, Senator, the point is that whether or not the question arises as Secretary of HUD or as counselor, the particular question will arise in a content of either a conversation or a communication.

Then we will both face the issue as to whether that communication or conversation is in the executive privilege area.

I am talking about an area I don't know a heck of a lot about, but it is one I am going to have to obviously know a lot more about than I know now. It seems the distinction is not so much the counselor—although that can play an important role—but issues could arise with a Secretary as to what he said to the President, and what the President said to him.

So the issue is not new in that regard, but it may take on different elements as to where the lines are in my role as counselor. I have to get a lot better briefed before I can speak definitively.

Senator BROOKE. We wouldn't be so interested in your conversation with the President, but in your opinion on an issue which may come to you as a counselor to the President and as Secretary of HUD.

Mr. LYNN. For example, suppose there is an issue in the field of, let's say, agricultural housing, or I should say housing under programs of the Agriculture Department. I will work closely with Secretary Butz in the Community Development Committee that deals with community development programs. The thrust of what I was saying to the chairman before was that that committee has the right, if they believe it relevant, to call me to testify before them on my views on that subject.

Now, Mr. President, I hope it is clear that Mr. Lynn answered this question very satisfactorily and that he will be willing to testify before our committee whenever we request it, except perhaps on direct communications and conversations with the President.

Question 2. Does Mr. Lynn agree with the goal of building 26 million housing units including 6 million units for low- and moderate-income families over a 10-year period, as stated in the 1968 Housing Act?

The answer taken out of context is intended to show that Mr. Lynn does not know anything about the goals and that he has no commitment. The excerpt is taken from a colloquy with Senator TOWER, ranking minority member on the committee, and is on page 17 and 18 of our hearings.

Senator TOWER. . . . I have been coauthor and author/cosponsor of every low-income housing piece of legislation that has crossed this committee since I have been a member of it. So I assume that you do agree with the goals as stated in the legislation we have passed over the past few years.

The only question is: How do we arrive at the goal? Do you think we should have a reexamination of our progress toward that goal and the means toward which we achieve that goal?

Mr. LYNN. Senator, I think if you check on me with the other committee, one thing you will find is that I like to be precise where I can. Where we are talking about the goals of a decent home and suitable environment for all of our people, most certainly this administration is committed to that.

Now, as to the specific goal of the 1968 act—the 26 million new or rehabilitated homes, 6 million of low- and moderate-income—whether that is precisely still the goal we ought to follow is something we want to jointly explore with the Congress. In other words, with the changes that have been occurring, not only in housing starts but in the patterns of living in the United States and what may be happening to our housing stock we think it is a good time to take a look at whether that specific goal is still a good one.

I must admit I have no view on it at the moment. It is just something I would like to look at very, very hard and would hope that your people up here will also look at with us.

Senator TOWER. I don't think that is inconsistent with what we intended in our legislation.

Frankly, Mr. President, I doubt that any of us would like to say that the goals of the 1968 act are precisely still the goals we should follow. We do need to review these goals and I might say that the Senator from Wisconsin has been one who has suggested that they have continual review on many occasions. A further comment on this was made in response to a statement made by Senator BROCK, in which Mr. Lynn said:

You are right, Senator. We are committed to such goals.

This discussion is found on page 44 of our hearings, and I include it in context at this point to clear up the record on Mr. Lynn's commitment to housing goals.

Senator BROCK. . . . In essence, Mr. Lynn, I cannot tell you how delighted I am that you have undertaken this reevaluation. I wish you well. I know the difficulties, but you are going to have one member strongly supporting your efforts to do a better job of serving the people and the taxpayers and the poor and everyone else.

May I make one additional point which you can comment on or not as you see fit. I have heard the statement made that the freeze, if you will, demonstrates a lack of commitment to housing goals, and I think it should be said on the record that this administration is building publicly supported units at about triple or more the rate of the prior administration. We are doing, I think, a rather phenomenal job, given the difficulties inherent in the program conflicts as they are today. I think Secretary Romney was an exquisite Secretary of HUD within the framework and the limitations that were imposed on him. I think this administration, in the achievements over the past 4 years, has demonstrated its commitment to the meaningful housing goals of the United States. This commitment is in no wise changed by the desire to reevaluate and combine and coordinate the existing programs so that they become more effective.

Mr. LYNN. You are right, Senator. We are committed to such goals. We want to solve these problems. We want to make progress. We are not turning our back on these problems. What we want to do is do the job in a way that is effective, and effectiveness means reaching those people we want to reach and, at the same time, being fair to our taxpayers in reaching those people in a way that is most effective for the taxpayers' dollar.

Question 3. Will Mr. Lynn seek to persuade the President to lift the housing moratorium as soon as possible?

The answer was to a question from Senator PROXMIRE and is found on page 24 of our hearings, as follows:

Senator PROXMIRE. If you are confirmed as Secretary of HUD, will you do everything within your power to persuade the President to lift the moratorium as soon as possible?

Mr. LYNN. If you mean by "as soon as pos-

sible" tomorrow or the next day—to say "this was wrong, Mr. President, and you ought to lift it"—the answer is no, because I believe it was the right procedure.

On the other hand, I do intend seeing that the process of our evaluation of where we are and where we should be going is speeded up as much as possible so we don't have a day longer than we have to of uncertainty as to where we are going from here.

What more could one ask of a person who has not been involved in the decisions of the Department of Housing and Urban Development or in the determination to establish the moratorium and who is to be responsible to the President for housing programs? He said he will do what he can to see that an evaluation is made and programs continued as soon as possible.

Question 4. What will be the future of our housing subsidy programs?

This question does not accurately describe the discussion that brought about the response from Mr. Lynn. Furthermore, the answer is taken out of context. The colloquy with Senator BROOKE is on page 26 of our hearings and is as follows:

Senator BROOKE. Now, as I see it, if the policy announced in Secretary Romney's speech is carried out by the administration, then potentially more than $2 billion and over 1 million subsidized housing units will be impounded.

Now, that is domestic legislation on a large scale with the attendant effects on people and jobs and the economy and many other things. That is the decisionmaking authority which is being usurped. That is what I think we are very much concerned about up here and I want to know if you are concerned about this?

Mr. LYNN. Two points, Senator. One, I would be very, very concerned if we went 18 months with no solutions with respect to this kind of an issue, without answers that we're working on together. But when I look at the short-term prospects, with the commitments that are already in the pipeline and the like, I have to look at it from three or four standpoints.

If the issue is the impact on the overall economy, from what I read in the journals and magazines the problem is that housing starts are so high it is having a difficult effect on housing materials and supply of the workmen and in some cases on the manner in which housing is being built. In other words, it is an overheated thing rather than underheated thing.

Most of the economists I have been reading say that the action we have taken shouldn't have any repercussions for the foreseeable months ahead. So, I just don't see those bad effects.

Second, the degree that there may be any impact here on, let's say for example, most builders who are particularly directed into these programs, 235 and 236, will depend in part on how long it takes us to come up with the answers.

As I said earlier, Secretary Romney talked of looking at every option—what should the role of the Federal Government be, what should State and local government roles be—and said that our conclusion may be after a short period of time to turn them back on.

The only thing I can tell you at this point is I sure don't know the answers. All I have is an open mind to it.

The fact is, Mr. Lynn was not commenting on the future of our housing subsidy programs directly. He was commenting on the economic effect that would result from present policy, and he said that he does not have all the answers.

Question 5. Can Mr. Lynn give just a glimmer of his thinking on the interest subsidy programs? (Sections 235 and 236.)

The response was made to a discussion with Senator STEVENSON which is recorded on page 32 of our hearings. The full question and answer are as follows:

Senator STEVENSON. In response to a question from Senator Proxmire about your qualifications for this high office, you said that you fight for what you think is right. My great difficulty at the moment is that I haven't the faintest idea about what you think is right. Can't you give us a hint at least, just a glimmer, of your present thinking, for example, on the interest subsidy programs?

Mr. LYNN. The only glimmer I could give you would be some of the things I want to look at with respect to them, because I really do not have a feeling at this moment as to where I do want to proceed. It seems to me a person has to be very cautious, particularly when you are looking at the changed circumstances over the last 3 years. Your question can break into pieces. One question could be: Is the program being well managed? Could management of the program be improved? From things I have heard—in fact, things that HUD itself has told me, there are ways of improving the management of the program.

At the other side of the spectrum are questions as to whether there is a need for that kind of a program or to help that group of people at this point in time; and if there is a need, is this the best way of doing it?

To me, this is a very reasonable response by a person who has not had the opportunity to completely evaluate these programs which we all know have major problems in their operation.

Question 6. How does Mr. Lynn feel about phasing GNMA out of the secondary mortgage market?

This question was asked by Senator STEVENSON and is recorded on page 33 of our hearings. The answer is on the following page. I include for the RECORD the printed version of the hearings.

Senator STEVENSON. How do you feel about phasing GNMA out of the secondary mortgage market?

Mr. LYNN. When you say "phasing it out of the secondary mortgage market," what do you mean? Because they are into so many programs——

Senator STEVENSON. There is a rumor that the administration intends to do that.

Mr. LYNN. I do not know what it means by "phasing it out of the secondary mortgage market." That is just such a broad expression. Do you mean getting it out of the tandem plan?

Senator STEVENSON. Stopping its secondary mortgage activities, I suppose is what it means. Would you support that kind of a move?

Mr. LYNN. I may be showing my ignorance of the programs at this point, but I am afraid I cannot answer it because I really do not understand the question with the little bit of detail that I know about the program. I do not have a whole lot.

Let me answer it this way, though, to put people at rest. As far as my own position is concerned, I have made no judgments as to what I would recommend doing in this connection.

It is obvious to me that Mr. Lynn did not understand just what the question was and therefore did not know how to respond. What does not show up in the printed record but is in the original transcript is that when Mr. Lynn asked "what do you mean?" The reply was, and I quote from the transcript:

Senator STEVENSON. There is a rumor that the Administration intends to do that. I do not know exactly what that means.

How is one expected to answer a rumor which is not explained and which he does not understand? All Mr. Lynn could say is that he had made no judgments as to what he would do in that connection.

Question 7. Should FHA be privatized?

This is a question asked by Senator STEVENSON and recorded on page 34 of our hearings. Mr. Lynn did not know what he was asking or what privatizing meant or what functions of FHA he was referring to. Hs asked what it meant and received the response that it was assumed to mean giving some or all of the FHA insurance programs to either some form of federally chartered corporation or private institutions.

Mr. Lynn's answer to a question that was not clear and was not made clear is a reasonable one as shown in the text of the hearings as follows:

Senator STEVENSON. That is what makes me unrestful at the moment. The Assistant Secretary for Housing Production and Mortgage Credit indicated last year that HUD was studying desirability of privatizing FHA. How do you feel about that proposition?

Mr. LYNN. Privatizing it?

Senator STEVENSON. That is his quote. That is what he said, "privatizing of FHA," which I assume means giving some or all of the FHA insurance programs to either some form of federally charactered corporation or private institutions.

Mr. LYNN. Well, if I remember right—and I hope I am not saying anything about him that is not true—did not one of the mortgage bankers propose at meetings this last year that that whole operation be spun away from the Government? So I guess there was someone advocating that.

One of the things you would get into in considering that question is that FHA, if you look at its accomplishments from the 1930's, has accomplished some historical things that just would not have been done otherwise, or at least it was a way of doing them. They brought about the long-term mortgage. They brought about the low equity. They brought about some changes in design for housing that are really quite remarkable.

So before I privatized that side of it, I would surely want to give a lot of thought to the functions that it has performed quite apart from a sheer finance function.

Question 8. How will HUD determine which of our present housing programs are viable?

The answer used in the excerpt to this question was not given to such a straightforward, simple question. The discussion was with Senator JOHNSTON and is on pages 41 and 42 of our hearings, as follows:

Senator JOHNSTON. Well, it just seemed to me that the letter was so strong that it indicated an evaluation already having been made and a judgment already having been made, and if that was so, I was going to ask next who was going to decide on the new thrust in housing and how was HUD going to go about making that decision? As a practical matter, have you set the machinery in motion now to recommend—to come up with a program?

Mr. LYNN. Senator, I am presently the Under Secretary of the Department of Commerce. I am neither counselor to the President nor Secretary of HUD. So I cannot put any program in motion at the present time.

Senator JOHNSTON. How about Secretary Romney? Has he put a program in motion?

Mr. LYNN. Some time ago, to his credit, he put some activities into motion to try to do some evaluation. I would intend taking a very hard look at what he has done to date and seeing whether or not I think it fits my own style of getting those data. I have already talked once to some of the staff people from this committee to get help on how to go about doing that from their experience with these subjects, but I have to punt at this point in time as to the exact way I intend doing it. I can say that what I have tried to do, kind of off the record, so to speak, is to start gathering as many facts as I can as to where we have come in the last 4 years and what is changing in our economy; what is the effect of mobile homes; what is the effect of the new building rates. Is the problem of our inner-city really housing? Sure, housing becomes a terrible symptom, but is it really part of a larger program that must be addressed? And if so, by whom and what is the appropriate role of the Federal Government in addressing ourselves to that problem?

As is evident from the response, Mr. Lynn has already begun to get involved in this issue even though he has not been approved. He has discussed it with staff of our committee and others. I do not know how we could expect him to tell us exactly how he intends to proceed. Of course, he needs to consider all that has been done and evaluate it before reaching such a conclusion.

Question 9. Can Mr. Lynn clarify his views on our housing programs?

The question is simplistic but covers a subject area far too broad to answer in one sentence. The discussion is with Senator BIDEN on pages 48 and 49 of our printed hearings, as follows:

Senator BIDEN. Thank you, Mr. Chairman.

Mr. Lynn, I share a number of the reservations expressed by some members of the committee. I agree with Senator Packwood that the fact that you come here with an open mind is encouraging, but what disturbs me is not only do you have an open mind, but also you do not seem to have an understanding of the existing programs that are now under consideration in that you keep responding to the questions by saying, "I have not had a chance to look at that yet. I am not sure where we are there. I am not sure whether they are functioning or not." That part disturbs me. Maybe you can clarify that a little bit for me.

Mr. LYNN. I appreciate your raising it. I think there is a distinction here. Although I would not profess to be as expert with regard to 235 and 236 as people who have testified in recent committee hearings before this body, I think I have a fairly decent general understanding of what the programs do in the sense of how they operate; what is the tax shelter effect of 236; what is the profit and risk element for the contractor; what happens on the tandem plan, section 236 leasing programs, rent supplements, and that type of thing.

However, I am trying to make the point that I do not have any firm views at this time as to how those programs are impacting, their net effect on the overall goals we are trying to achieve. That is the point I am making.

Very frankly, in talking to a number of other people, including people in the Congress, I find that view expressed by them as well—that it is a good time to see where we are and what the impact of those programs has been.

I would like to think that in the course of the last 3 or 4 weeks, notwithstanding the work at Commerce, I have gotten some familiarity—boned up on the actual programs. I would also like to say that this is always a difficult thing because if you say too much you are crowing about what you know; on the other hand, if you say too little, then you catch the criticism that you do not know anything.

Question 10. What are Mr. Lynn's views on achieving a greater economic mix of residents in subsidized housing projects?

The colloquy in which the excerpt given as Mr. Lynn's answer to this question is with Senator BROOKE and is on pages 51 and 52 of our hearings, as follows:

Senator BROOKE. Mr. Chairman, I have many questions and I would like to submit most of them for later response, if Mr. Lynn would be kind enough to answer them in writing. There are three matters that I would like to call to your attention. One is the question of economic mix. As Mr. Lynn knows very well, we have placed so many people with social problems in low-rent public housing projects. There is very little attempt to have an economic mix—that is putting low-income people with moderate income people, say the $9,000 and $10,000 range. This would be very helpful, I think, in guiding these low-income people and these social problem people.

What are your views on the economic mix in housing?

Mr. LYNN. Going to your point, Senator, that there have been an undue number of people from the lowest incomes going into public housing where that was not the case before. From what I have read and from what I have heard, at least so far, one of the things the social science people believe is that if you have other people in the same general area with pride in ownership who will not tolerate, let's say, disruptive or improper activity, it can help a good deal with those people that by force of their own backgrounds may not have the proper appreciation for such matters.

How to best accomplish that, how to solve the problem of taking care of the people who by reason of their own background—many times no fault of their own—really are not ready for certain kinds of housing, is something that I do not think really has been properly addressed at this point. I have done a lot of reading and I did not see any solution yet, so I certainly do not have one at the moment, but I am not aware that anyone else really does, either, at this point.

This is one of the reasons we have to stand back from it and see what we do. This is why I said a little earlier that I look upon the opportunity for closer relationships with people like Mr. Weinberger who will be, the Senate willing, running HEW, as of vital importance, because I do not think you can look at it solely in a housing context. You are talking about job opportunity. You are talking about health. You are talking about counseling services. You are talking about what money these people have to spend for what. And I think sometimes we tend to look at a situation as a housing problem, when it is something that has to be looked at on a lot more coordinated basis than housing.

The full answer is very responsive, particularly since an answer to this question is not readily available.

Now, Mr. President, I realize that this discussion has been quite detailed, but these questions are complicated questions. We, in the Congress, have been struggling with them for many years and we do not have the answers yet either, as is evident from the fact that we have not solved the problems.

I do not believe it is reasonable to expect that Mr. Lynn would have had ready solutions either.

In my opinion he was very responsive to difficult questions. He was in a bad spot because of the moratorium which the administration has placed on certain of our housing programs, and it is obvious that an attempt would be made by some to use his nomination as a means of trying to get the administration to change its mind about the moratorium.

More has been done to meet our housing goals during this administration than has ever been done before in any administration. The fact that they desire to take a closer look at the problems in present programs is to their credit.

I hope, as Mr. Lynn expressed when he appeared before our committee, that we can reevaluate present programs quickly and get on with the job of improving them where needed or eliminating them and replacing them with more workable programs so that we may more nearly meet our housing goals.

In conclusion, let me agree with the Senator from Wisconsin when he stated in our hearings, and I quote:

Now I am sure Mr. Lynn is a fine and able individual. I have met him briefly, he has a brilliant academic background, he has had great success as a lawyer. I think all these are certainly in his favor and will be great assets to him as Secretary of Housing and Urban Development.

Mr. President, I hope that the Senate will not be misled by charges based on quotes taken out of context or on a partial answers to questions without giving full consideration to the complete answers.

On the basis of the complete answers given by Mr. Lynn and his competence shown in government service over the past 4 years, I hope that his nomination will be approved quickly by the Senate so that he can get on the job and continue the work that Secretary Romney has so ably begun to meet our commitment to assist in providing a decent home and a suitable living environment to all citizens of this country.

Mr. PERCY. Mr. President, I strongly urge the confirmation of James Lynn, nominated by President Nixon to be the next Secretary of Housing and Urban Development and will be happy to be held accountable for the representations I made on his behalf to a number of my colleagues.

Mr. Lynn has served with great distinction as Under Secretary of Commerce and before that as the Department's General Counsel. My own relationship with him and everything that I know about him through Secretary Peter Peterson leads me to believe he is an exceptionally competent administrator and a fine leader of those with whom he works. He is loyal to his superiors, but does not hesitate to express his convictions and effectively put across his point of view.

As a former member of the Committee on Banking, Housing and Urban Affairs, I am sympathetic with the distress of some of the members of this committee, both Republican and Democratic, at the moratorium imposed on certain housing funds. I have previously expressed my

own disappointment that action was taken by the executive branch of Government without prior consultation with congressional leaders who have a major responsibility in this area. However, I do not believe it justified to delay confirmation of Mr. Lynn or to cast a negative vote against him because of this action taken prior to his nomination.

I am hopeful that the Congress can satisfactorily resolve its differences with the executive branch of Government in the important field of housing. I have great confidence that Secretary Lynn will play a constructive and responsible role in bringing this about.

In private as well as public life, Secretary Lynn is an exceptional man and our Government shall benefit greatly as a result of his continued distinguished service.

The PRESIDING OFFICER. The question is on the confirmation of the nomination of Mr. James T. Lynn to be Secretary of Housing and Urban Development.

The nomination was confirmed.

Mr. HUGHES subsequently said: Mr. President, the Senator from Iowa had stepped out of the Chamber when the vote was taken on the confirmation of the nomination of Mr. Lynn to be Secretary of Housing and Urban Development. The Senator from Iowa had read very carefully the information that the Senator from Wisconsin (Mr. PROXMIRE) had circulated to this body, and on the basis of that information, had reached the conclusion that he would oppose the nomination of Mr. Lynn. I had been informed that there would be no rollcall vote, but since I was not in the Chamber to vote "no," I wish to ask unanimous consent to be recorded as voting "no" prior to the call of the roll.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate return to the consideration of legislative business.

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

FLOOD CONTROL ACT OF 1973

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 606, which will be read by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 606) authorizing the construction, repair, and the preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The Senate proceeded to consider the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE ECONOMIC REPORT OF THE PRESIDENT

Mr. PROXMIRE. Mr. President, this year's "Economic Report of the President" epitomizes the Nixon domestic doctrine. Simply stated, this doctrine boils down to: "If you can't lick a problem, ignore it." I cannot recall a previous economic report—and I have read all of the reports in the 9 years before I came to the Senate and in the 15 years that I have been a Member of the Senate—that is so completely devoid of policy recommendations.

No domestic economic problem is adequately treated. There are no effective proposals for controlling inflation or for reducing unemployment. Other critical economic needs—tax reform, welfare reform, reducing poverty, strengthening competition—are not even mentioned.

The administration has tried for 4 years to get inflation under control. Though the country has paid enormous costs in terms of unemployment and lost output, inflation has not really been controlled. Even 16 months of detailed mandatory controls did not do the job. At the end of 1972, consumer prices were still rising at a rate of over 3 percent per year—higher than during the period before controls went into effect. The result was that after nearly 17 months inflation has not slowed down at all but, in fact, it has continued to speed up a little bit. Wholesale prices were rising at an alarming 10 percent rate. Yet, instead of being strengthened and streamlined, the controls are to be virtually abandoned. Phase III is not an effective control mechanism. Businessmen and investors recognize this, as is shown by the sharp decline in the stock market since Phase III was announced.

This administration has never been really concerned with reducing unemployment. This year's report is more unconcerned and complacent than ever. The Council of Economic Advisers regards 4½ percent as an adequate policy target for reducing the unemployment rate. The long-standing interim target of 4 percent has been totally abandoned. The mandate of the Employment Act to promote "maximum employment" has been ignored.

I agree with the President that there must be fiscal restraint. Indeed, expenditures can be cut even below what the President has recommended. But within this expenditure total, funds must be redirected into programs which create jobs, train workers, and improve labor market efficiency. It is simply incredible that this year's economic report contains virtually no mention of manpower and employment policy and not one single recommendation for ever reducing unemployment below 4½ percent.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow at the conclusion of the orders for the recognition of Senators which have been previously entered, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

FLOOD CONTROL ACT OF 1973

The Senate continued with the consideration of the bill (S. 606) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow, the Senate resume the consideration of S. 606, the so-called rivers and harbors bill.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that on tomorrow there be a limitation of time for debate on S. 606, together with a time limitation on amendments, appeals, and motions in connection therewith, as follows:

That the time for debate tomorrow on S. 606 be limited to not to exceed 2 hours, with time on any amendment in the first degree to be limited to 30 minutes, time on any amendment to an amendment to be limited to 20 minutes, and time on any debatable motion or appeal to be limited to 10 minutes, and that the vote on passage of the bill (S. 606) occur not later than 4:30 p.m.;

Provided further, That the time for debate on the bill be equally divided between and controlled by the distin-

guished senior Senator from West Virginia (Mr. RANDOLPH) and the distinguished senior Senator from Tennessee (Mr. BAKER); that time on any amendment, debatable motion, or appeal be equally divided between and controlled by the mover of such amendment in the first degree, and the manager of the bill or his designee; and, with reference to amendments in the second degree, that time be divided between the mover of such and the author of the basic amendment.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that rule XII be suspended with respect to the final vote on this bill.

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

Mr. ROBERT C. BYRD subsequently said: Mr. President, if my colleague will yield further, I wish to add to my unanimous consent request regarding S. 606 the following proviso:

That time on any debatable motion or appeal be equally divided between the mover of such and the distinguished manager of the bill.

The text of the unanimous-consent agreement reads as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, effective on February 1, 1973, during the further consideration of S. 606, the river and harbors bill, debate on any amendment in the first degree be limited to 30 minutes, debate on any amendments to amendments be limited to 20 minutes, and debate on any motion or appeal, except a motion to lay on the table, shall be limited to 10 minutes, with the time on any amendment in the first degree to be equally divided and controlled by the mover of any such amendment and the manager of the bill or his designee, and the time on any amendments to amendments to be equally divided and controlled by the mover of any such amendment and the author of the amendment in the first degree, and the time on any debatable motion or appeal to be equally divided and controlled by the mover of any such motion or appeal and the manager of the bill, Mr. Randolph.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to not to exceed 2 hours, to be equally divided and controlled by the manager of the bill, Mr. Randolph, and the Senator from Tennessee, Mr. Baker: *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion or appeal.

Ordered further, That the vote on final passage occur not later than 4:30 p.m.

Mr. RANDOLPH. Mr. President, is S. 606 now before the Senate?

The PRESIDING OFFICER. It is the pending business.

PRIVILEGE OF THE FLOOR

Mr. RANDOLPH. Mr. President, I ask unanimous consent that during the debate today and tomorrow on S. 606, the following persons on the staff of the Committee on Public Works be accorded the privilege of the floor: Barry Meyer, Bailey Guard, John Yago, Hal Brayman, Wesley Hayden, Ann Garrabrant, and Richard Herod.

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

Mr. ROBERT C. BYRD. Mr. President, will my distinguished colleague yield to me, with the understanding that he not lose his right to the floor?

Mr. RANDOLPH. Yes.

Mr. ROBERT C. BYRD. Mr. President, I should announce, for the information of the Senate, that there will be no further rollcall votes today. I would anticipate a rollcall vote on passage of the rivers and harbors bill tomorrow. May I ask my colleague if he agrees with that assumption?

Mr. RANDOLPH. Mr. President, I think the able assistant majority leader is correct in assuming that there will be a rollcall on this legislation. There was not a rollcall on the bill last year, but I think, in view of the fact that we are bringing back a measure which was passed by both bodies last year, agreed on in conference and later vetoed by the President, it would be worthwhile and the very best procedure to have a rollcall on final passage.

Mr. ROBERT C. BYRD. I thank my colleague.

Mr. RANDOLPH. Mr. President, as chairman of the Senate Public Works Committee, I bring before the Senate for its consideration S. 606, the Flood Control Act of 1973. I trust that this measure will be accepted in the Senate as presented from the Committee on Public Works. It is, as I have indicated in the colloquy with the able assistant majority leader, identical to a measure that passed this body unanimously during the second session of the 92d Congress.

As many Members are aware, this bill is a replacement for the conference report on S. 4018, the Flood Control Act of 1972, which was vetoed by the President on October 27 of last year. That veto occurred, as we know, after adjournment of the Congress. The legislation, as I have earlier said, embraces the same provisions as last year's measure. We have added no additional items in committee. I think it is necessary to stress this point at the beginning of our consideration of the legislation so that we can assure the Members of this body, especially the new Members, that adoption of this legislation will be a reaffirmation of action previously taken. It includes no provisions which were not taken into full account during the subcommittee hearings and subsequent floor discussion of last year's measure.

The hearings last year lasted a total of 12 days. We had testimony from approximately 230 witnesses. These witnesses included representatives of the Corps of Engineers, Members of Congress, Federal agencies, representatives of State governments, and the public in general.

In light of the legislative history, and because of the veto of the 1972 bill, we have already in this country delayed authorization of a number of urgently needed projects.

I am delighted that in the Chamber at this time is a new member of the Public Works Committee, the ranking minority member of the Water Resources Subcommittee, the distinguished Senator from Virginia (Mr. SCOTT), who is intensely interested in these measures to develop reasonable and strong water resources programs for the country.

It is the judgment of the members of the committee that the reintroduction of this bill in its present form, at this early stage of the session, is proper and is sound legislative procedure. The approximately 230 witnesses and the 12 days of intensive hearings were the backdrops that caused this legislation to come to the Senate and to be approved in this body.

I think that the judgment of the Public Works Committee members is also the judgment of the majority leadership of the Senate. I think I am correct in that statement.

I anticipate the presence in the Chamber tomorrow of the able ranking minority member of the Committee on Public Works, the Senator from Tennessee (Mr. BAKER), who will be helpful in consideration of this bill. Presumably, we will have an opportunity to discuss the measure in formal statements at the opening of debate, as I am making today, and in helpful colloquy among Members. The Senator from Tennessee (Mr. BAKER) has a thorough knowledge of this legislation and contributed to it, as did other members of the committee, during its consideration within the committee and in the Senate last year.

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

Mr. RANDOLPH. I am delighted to yield to the distinguished Senator from the Commonwealth of Virginia.

Mr. SCOTT of Virginia. I thank the Senator for yielding and regret that I was not a member of this committee last year when the hearings were held. I am not so familiar, therefore, with the provisions of the bill as I should like to be as the ranking member of the subcommittee. I appreciate the Senator's willingness to have any of the amendments considered tomorrow, when the ranking minority member of the full committee, the Senator from Tennessee (Mr. BAKER), will be present and can present the position of the minority.

The Senator from West Virginia has been very courteous and I am appreciative of it.

Mr. RANDOLPH. Mr. President, we have three new members of the Public Works Committee on the minority side, the Senators from Virginia (Mr. SCOTT), from Idaho (Mr. MCCLURE), and from New Mexico (Mr. DOMENICI). We also have three new committee members on the majority side, the Senators from North Dakota (Mr. BURDICK), from Iowa (Mr. CLARK), and from Delaware (Mr. BIDEN). We know that their contributions will be considerable even in the early stages of their committee experience. I am sure that we can move forward for the passage of worthwhile legislation in the public interest.

There is, I think, another basis for immediate consideration of this legislation. I am going to discuss some of these matters before going into the specifics of the bill.

I call attention at this time to the report of the Committee on Public Works to accompany S. 606 to the floor.

I also call attention to the fact that

there are the minority views of the Senator from New York (Mr. BUCKLEY). I would want Members to share with our colleagues in the Senate any differences which might occur, as they have, within the committee. Those views of the Senator from New York are set forth with the report from the committee.

There are involved in this legislation implications as to the future relations between Congress and the White House on public works issues which were read into the comments of the President when he disapproved the 1972 bill.

I am conscious of the responsibilities of the President. I feel that the Chief Executive, having the power of the veto, must, at times, use it. Then, of course, the Senate acts later in approving or in overriding the position taken by the President.

I feel that in the future the Senate should be very careful not to adjourn sine die during the life of the Congress. This was apperant in the 92d Congress. In other words, to adjourn sine die gives the Senate no opportunity to complete the legislative cycle. We had the vetoes of the President but because we adjourned sine die, we could not respond to them with votes. We cannot call ourselves back. That call can only come from the President of the United States. We were not given the opportunity and we did not have the sharing of the responsibility to say either yes or no to the vetoes in several instances in which the President expressed his judgment after reviewing the measures which had passed Congress.

It is a recommendation I would like to press even in these remarks, that we think very carefully about holding ourselves is a position so that we can, if the leadership on both sides think it advisable, come back on a date certain and act upon these vetoes of the President. I think this is very important for consideration in this Congress and in succeeding years.

I think I have made it abundantly clear that the President considered it the prerogative of the executive branch, rather than Congress, to establish the standards and criteria for evaluating future water resource projects and to determine what projects should be authorized and in what order of priority. I am not now critical of the President. I am only drawing to the attention of my colleagues in the Senate the feeling of the President. In line with that theory, the administration has already submitted to Congress its own version of a flood control bill for this year, which it has the right to do.

Mr. SCOTT of Virginia. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. SCOTT of Virginia. I thank the Senator for yielding.

I share the concern that the Senator has expressed, and I would like Congress to have the mechanisms whereby we could evaluate a project such as this. In fact, I would like us to have the entire budgetary material we would need to pass upon the measures that come before Congress. But I ask the distinguished Senator if our committee is equipped with the necessary personnel and is equipped with the necessary expertise to pass upon all these matters without the assistance of the executive branch of the Government. Are we at the present time, of necessity, dependent upon the executive branch?

Mr. RANDOLPH. Certainly there is the double responsibility of Congress and the executive branch. We do, of course, have the very intensive studies of the Corps of Engineers in the matters that are before us, as well as others. The committee also intends this year to conduct an extensive oversight inquiry into the total planning process of the Federal Government in the field of water resources development.

Mr. SCOTT of Virginia. Mr. President, I do not want to interrupt the orderly presentation of the material by the Senator.

Mr. RANDOLPH. I thank the Senator.

I was saying that the administration has forwarded to the Hill its flood control bill. It differs sharply from the measure which is now before us, the bill that was passed late last year. In my opinion—and I believe it is shared by others—the administration bill falls far short of meeting the development needs for water resource programs in the country. I have a feeling—and perhaps it is shared by others—that this is an attempt at preemption of authority by the administration. I am not attempting to be in a challenging mood, but I think that if we can bring about early adoption of the legislation, that will be our best method of countering the threat with which we are now confronted.

To attempt to resolve this issue, we bring back to the Senate something on which it acted at a very recent date. So I think early adoption of the measure is called for, and I believe it is the judgment of the committee—certainly my judgment—that S. 606 is very sound. It is very practical. It sets forth a policy which I think is the viewpoint of the committee and perhaps of Congress.

The proposal of the administration, falling far short of what is necessary, brings me to the point to say that S. 606 is a comprehensive bill. It provides the action necessary, of some type, on an estimated 70 projects or developments in 34 States and Puerto Rico. The amount authorized is approximately $593 million, and it is the most modest of any omnibus bill of this type since 1948.

In addition, in this measure we address ourselves, through general provisions, to a number of problems of major and long range importance and of real concern to the people of the country. We place particular emphasis on the problems of shoreline and stream bank erosion, which are becoming increasingly serious in many areas, and provide for both studies and demonstration projects to cope with them.

My able colleague, Senator ROBERT C. BYRD, the majority whip, who is in the Chamber at this time, knows of the problems we have particularly on the Ohio River; and the Senator from Ohio, Senator TAFT, also knows of the problems of bank erosion. More cargo is moving on that river today than in years past. Some people think the rivers are not used any more, that the inland waterways are dormant. They are carrying much more tonnage than ever before. With the movement of this freight, certain movement of the waters takes place, certain currents are churned, and certain bank erosion takes place. These are matters of concern, and we have them under study.

The bill expands the authority—and properly so—for financing the replacement of community services in major disaster areas. We are also attempting to provide—and properly so—for the construction of small flood control projects at Federal expenditure in such localities.

There is another significant feature in the measure as we bring it to the Senate. We have a provision for barring until the end of this year any increase in the discount rate for financing water resource developments in order to give time for further congressional and agency study of the factors involved in this issue. The bill reserves for Congress the right of final review in the matter of project deauthorization after an 8-year period.

The administration proposal, conversely, would provide only for notice to Congress of any deauthorization decision, with the decision automatically becoming effective 180 days after such notice without opportunity for reversal.

Other provisions are designed to clarify and improve relations between the Federal Government and State and local sponsors in planning, developing and implementing public works projects, and in addition, to provide new procedures for carrying forward such activities.

I will not discuss in detail each of the projects the bill authorizes, since the basis for each is described in the legislation and accompanying report.

I stress, however, that in recommending them for consideration the committee was convinced that each was needed by the locality concerned and would be a valuable addition to the existing Federal water resources program.

Each project was picked for a particular purpose: To prevent or reduce the damage from flood waters; to provide water for municipal, agricultural, or industrial use; to generate electric power; to provide recreational opportunities or to improve navigational facilities and services.

I am not going to discuss individual projects in detail. They are discussed in detail in the report and I ask unanimous consent to include at the conclusion of my remarks a State-by-State list of projects authorized by this bill.

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

(See exhibit 1.)

Mr. RANDOLPH. Mr. President, in summary, the bill represents the best features of measures originated and considered in the Senate and House last year, and reconciled in conference before final approval by both bodies.

It is sound and balanced legislation, based on a proven evaluation system and designed to meet demonstrated needs on both an immediate and long-range basis.

I recognize that the legislation is not all inclusive and that a number of Members may have new proposals or further modification of existing ones, which they would want considered this year.

I assure them that such an opportunity will be afforded to the full extent which cirumstances will permit later in this session, when the Public Works Committee considers the river basin monetary authorization bill.

The able Senator from Massachusetts (Mr. KENNEDY) has discussed with me in an informal way projects in which he is interested. He has not pressed for them, and if we take them into consideration later, that would satisfy his needs.

In the interim, the committee will undertake further studies to determine whether policy or procedural changes may be needed to make the process more effective and responsive to program needs.

I stress that in committee we tried to be creative and resourceful. We are not believers in the status quo. We know that changes take place and need to take place. We need to keep current with the needs of the people and the changing times in which we live. That in no way diminishes the necessity for early decision on the issues involved in the legislation before us.

I commend this bill for the earnest consideration of my colleagues and I hope it can be passed in the form that it came to the Senate.

EXHIBIT 1

PROJECTS AUTHORIZED BY S. 606

SECTION AND PROVISION

Arkansas

1: Cache River Basin (land acquisition).
8: McClellan-Kerr Arkansas River—Conway—Cadron Creek (municipal water supply).
14: White River Basin—Norfolk Reservoir (bridge construction).
51: Beaver Dam renamed for James W. Trimble.

California

5: San Francisco Bay—Delta Model, Sausalito (operation and maintenance of project).
36: Sacramento River (bank erosion).
39: Weimar—North and Middle Fork of American River—Eldorado Co. Road near Spanish Dry Diggings (road).
40: Santa Cruz Harbor (local cooperation).
41: Anaheim Bay—Seal Beach (local cooperation).
43: Port San Luis, San Luis Obispo Harbor (local cost).

Colorado

17: South Platte River (flood control).

Connecticut

24: Pequonnock River—Town of Trumbull—St. Joseph's Manor Nursing Home (municipal sewage).

Florida

9(b): Miami River (dredging survey).

Georgia

62: Trotters Shoals Dam and Lake, Savannah River, to be named for Richard B. Russell.

Illinois

4: North Branch, Chicago (clearing and maintenance).
67: Keokuk/Burlington (bridge).

Indiana

37: Newburgh lock and dam in Ohio River (bank protection).

Iowa

45: Missouri River Basin between Gavins Point Dam and Sioux City (bank stabilization).
60: Grand River (bridge).
67: Keokuk/Burlington (bridge).

Kansas

15: Melvern Lake—Pomona Lake (surface roads).
16: Tuttle Creek Reservoir—Big Blue River (road improvement).

Kentucky

1: Camp Ground Lake (flood protection).
31: Kehoe Lake, Little Sandy River—Tygarts Creek (land acquisition).
47. Cave Run Lake project—Zilpo Recreation Area (environmental impact statement).
61: Big South Fork National River and Recreation Area (establishment of).
71: Big Sandy River (dam conversion).

Louisiana

66: Atchafalaya River, Bayous Chene, Boeuf, and Black (navigation project).

Michigan

2: Manistee Harbor—removal of sunken steamer Glen.
9(b): St. Marys River—Sault Sainte Marie (deep draft survey).

Minnesota

9(a): East Two Rivers between Tower and Vermilion Lake (flood control survey).
22: Minnesota River and Mankato (intercepter sewer).

Mississippi

38: Lower Mississippi River—Yazoo River Basin (pilot study, bank stabilization).

Missouri

1: Grand River—Pattonsburg Lake (power installation).
1: Center Creek near Loplin (flood control).
13. St. Louis (flood protection).
60: Grand River (bridge).

Montana

55: Libby Dam, Kootenai River (fish hatchery).
56: Libby Dam, Kootenai River (land acquisition etc.).
57: Libby Dam, Lake Koocanusa (compensation).
58: Libby Dam, Lake Koocanusa (reimbursement—bridge).

Nebraska

21: Niobrara (flood control).

New Hampshire

46: Beaver Brook Dam and Reservoir, Keene (local share).
1: Bowie Creek (flood protection).
1: Pearl River (flood control).

New Jersey

25: Rahway River (utility relocation).

New York

7: East and Hudson Rivers (portions declared non-navigable).
9(a): Buffalo River Basin (wastewater management study).
48: Hudson River (portion declared non-navigable).

North Carolina

59: Cape Fear to North Carolina-South Carolina state line (reimbursement).

North Dakota

48: Land conveyance to Montrail County Park Commission of three tracts of land.

Ohio

34(a): Ohio River—New Matamoras to Cincinnati (bank protection).
35: Scioto River—Chillicothe—Mill Creek Reservoir (flood control).

Oklahoma

30: Lake Texoma (perimenter access road).

Oregon

1: South Umpqua River (flood control).

Pennsylvania

19: North Branch, Susquehanna River—J.P. Ward Foundries, Blossburg (compensation).
52: Chartiers Creek (within Allegheny County) named for James G. Fulton.
63: Presque Isle Peninsula, Erie (beach erosion).

South Dakota

42: Gavins Point Dam, Missouri River—Sacred Heart Hospital at Yankton (erosion damages).

Tennessee

1: West Tennessee tributaries feature, Obion and Forked Deer Rivers.
18: Andrew Jackson Lodge, Fraternal Order of Police—Nashville—Old Hickory Project (land conveyance).
61: Big South Fork National River and Recreation Area (establishment of).

Texas

1: Blanco River at Clopton Crossing (flood control).
9(a): Alice (flood control survey).
9(b): Corpus Christi Ship Channel—Harbor Island (enlargement survey).
30: Lake Texoma (perimeter access road).
32: Lavon Reservoir, East Fork, Trinity River (road).

Virginia

1: Buena Vista—Maury River (flood protection).
1: Virginia Beach (hurricane-flood protection).

Washington

53: Wynoochee Dam—city of Aberdeen (deferred payments).
54: Wynoochee Dam (fish hatchery).

West Virginia

34(b): Ohio River—Chester to Kenova, W. Va. (streambank erosion evaluation).
68: Pocatalico River Basin (flood control).
69: Guyandot River Basin (snagging and clearing)—R.D. Bailey Lake.
71: Big Sandy River (dam conversion).

Puerto Rico

9(b): Port Las Mareas (survey).

ORDER FOR RECOGNITION OF SENATOR FONG TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of Senator BROOKE tomorrow the distinguished Senator from Hawaii (Mr. FONG) be recognized for not to exceed 15 minutes.

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

STATEMENT OF POSITION ON VOTES BY SENATOR SYMINGTON

Mr. ROBERT C. BYRD. Mr. President, Senator SYMINGTON requests that he be shown in the RECORD as recorded in favor of the confirmation of Mr. Peter J. Brennan as Secretary of Labor and in favor of the confirmation of Mr. James T. Lynn as Secretary of Housing and Urban Development.

On January 23, Senator SYMINGTON announced his intention to vote for the confirmation of Mr. Elliot Richardson as Secretary of Defense. The permanent RECORD should also show that had he been present and voting he would have voted to confirm Mr. Richardson as Secretary of Defense, and I make such request.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I assume this will be, and I hope this will be, the last quorum call today.

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.

ORDER FOR RECOGNITION OF SENATOR STEVENSON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the distinguished Senator from Hawaii (Mr. FONG), the distinguished Senator from Illinois (Mr. STEVENSON) be recognized for not to exceed 15 minutes.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock meridian.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Mr. HUMPHREY, Mr. ROBERT C. BYRD, Mr. BROCK, Mr. HELMS, Mr. HANSEN, Mr. SCOTT of Virginia, Mr. MCCLURE, Mr. BROOKE, Mr. FONG, and Mr. STEVENSON.

There will then follow a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes. At the conclusion of routine morning business, the Senate will resume the consideration of S. 606, the rivers and harbors bill, on which there is a time limitation of not to exceed 2 hours, with the vote to occur on the passage of the bill (S. 606) at no later than 4:30 o'clock p.m. tomorrow.

That could be a rollcall vote. I am not certain as to that, but quite possibly it will be a yea-and-nay vote.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock meridian tomorrow.

The motion was agreed to, and at 4:52 p.m. the Senate adjourned until tomorrow, Thursday, February 1, 1973, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 31, 1973:

DEPARTMENT OF LABOR

Peter J. Brennan, of New York, to be Secretary of Labor.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

James T. Lynn, of Ohio, to be Secretary of Housing and Urban Development.

DEPARTMENT OF TRANSPORTATION

Frank C. Herringer, of Virginia, to be Urban Mass Transportation Administrator.

NATIONAL LABOR RELATIONS BOARD

John Harold Fanning, of Rhode Island, to be a member of the National Labor Relations Board for the term of 5 years expiring December 16, 1977.

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be general

Gen. David A. Burchinal, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. John B. McPherson, [redacted] (major general, Regular Air Force) U.S. Air Force.

The following officer to be placed on the retired list in the grade indicated, effective January 1, 1973, under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. Harry E. Goldsworth, [redacted] R (major general, Regular Air Force) U.S. Air Force.

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. Francis C. Gideon, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8600, in grade as follows:

To be lieutenant general

Maj. Gen. William W. Snavely, [redacted] R (major general, Regular Air Force) U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Richard M. Hoban, [redacted] R (major general, Regular Air Force) U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. George Vernon Underwood, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Fred Kornet, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Maj. Gen. Edward Michael Flanagan, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code section 711, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 711, as follows:

To be Senior U.S. Army Member of the Military Staff Committee of the United Nations

Lt. Gen. Donald Harry Cowles, [redacted] Army of the United States, (major general, U.S. Army).

The following-named Army National Guard of the United States officer for promotion as a Reserve commissioned officer of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be brigadier general

Col. Joseph Richard Jelinek, [redacted], Army National Guard of the United States.

IN THE NAVY

Vice Adm. James L. Holloway III, U.S. Navy for appointment as Vice Chief of Naval Operations in the Department of the Navy pursuant to title 10, United States Code, section 5085.

Vice Adm. James L. Holloway, III, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

Vice Adm. Worth H. Bagley, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be commensurate with the grade of admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

Rear Adm. Kenneth R. Wheeler, Supply Corps, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. Thomas B. Hayward, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. John G. Finneran, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. Daniel J. Murphy, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. George P. Steele II, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Vice Adm. George M. Davis, Jr., Medical Corps, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5133.

Comdr. Ronald E. Evans, U.S. Navy, for permanent promotion to the grade of captain in the Navy in accordance with article II, section 2, clause 2 of the Constitution.