shoring industries; to the Committee on Education and Labor.

By Mr. ROBINSON of Virginia:

H.R. 3567. A bill to amend the Occupational Safety and Health Act of 1970 with respect to certain small businesses, and for other purposes; to the Committee on Education and Labor.

By Mr. ROBINSON of Virginia (for himself, Mr. BROYHILL of Virginia, Mr. BUTLER, Mr. W. C. (DAN) DANIEL, Mr. ROBERT W. DANIEL, JR., Mr. DOWNING, Mr. PARRIS, Mr. SATTERFIELD, Mr. WAMPLER, and Mr. WHITEHURST):

H.R. 3568. A bill to designate certain lands in the Shenandoah National Park, Va., as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. ROBINSON of Virginia (for himself, Mr. CLEVELAND, Mr. ROBERT W. DANIEL, JR., and Mr. HUDNUT):

H.R. 3569. A bill to improve and implement procedures for fiscal controls in the U.S. Government, and for other purposes; to the Committee on Rules.

By Mr. ROUSH (for himself, Mr. BRADEMAS, Mr. HAMILTON, and Mr. MADDEN):

H.R. 3570. 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; to the Committee on Interior and Insular Affairs.

H.R. 3571. A bill to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RUTH:

H.R. 3572. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. SHOUP:

H.R. 3573. A bill to provide that the imposition of taxes the proceeds of which are appropriated to the highway trust fund shall be suspended during any period when amounts in the fund are impounded or otherwise withheld from expenditure; to the Committee on Ways and Means.

By Mr. SHRIVER:

H.R. 3574. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. WAGGONNER:

H.R. 3575. A bill to permit Federal credit unions to act as insurance agents for profit; to the Committee on Banking and Currency.

H.R. 3576. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. SHRIVER:

H.J. Res. 282. Joint resolution to create a select joint committee to conduct an investigation and study into methods of significantly simplifying Federal income tax return forms; to the Committee on Rules.

By Mr. SHRIVER (for himself and Mr. SEBELIUS):

H.J. Res. 283. Joint resolution to provide for a 1974 centennial celebration observing the introduction into the United States of hard red winter wheat; to the Committee on the Judiciary.

By Mr. ZWACH:

H.J. Res. 284. Joint resolution proposing an amendment to the Constitution of the United States to insure that due process and equal protection are afforded to an individual from conception; to the Committee on the Judiciary.

SENATE—*Thursday, February 1, 1973*

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

PRAYER

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

Almighty God, whose Word directs us to "Trust in the Lord with all thine heart; and lean not on thine own understanding. In all thy ways acknowledge Him, and He shall direct thy paths" (Proverbs 3: 5, 6), we thank Thee for a Nation at prayer this day. Thanks be to Thee for leaders and people who live by the certainty that it is in Thee we put our trust. By drawing close to Thee, may the diverse elements of this Nation be drawn closer to one another in one mighty community of faith and love, strong in the Lord and in the power of His might.

And now, as we quiet our hearts before Thee, we beseech Thee to surround Thy servant, JOHN STENNIS, with healing ministries and grace sufficient for all his needs.

And to Thee we give all praise and thanksgiving. Amen.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that the following Members had been elected as members of the following joint committees of Congress, on the part of the House:

JOINT COMMITTEE ON PRINTING

Mr. Hays, of Ohio; Mr. Brademas, of Indiana; Mr. Dickinson, of Alabama.

JOINT COMMITTEE ON THE LIBRARY

Mr. Hays, of Ohio; Mr. Nedzi, of Michigan; Mr. Brademas, of Indiana; Mr. Harvey, of Michigan; Mr. Hansen of Idaho.

ENROLLED JOINT RESOLUTION SIGNED

The message announced that the Speaker had affixed his signature to the enrolled 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.

The enrolled joint resolution was subsequently signed by the President pro tempore.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, February 1, 1973, he presented to the President of the United States the enrolled 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.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, January 31, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

(The remarks Mr. MANSFIELD made at this point on the introduction of S. 689, amendment of the Mineral Leasing Act of 1920, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. CLARK). Does the Senator from Pennsylvania wish to be recognized at this time?

Mr. SCOTT of Pennsylvania. Mr. President, I yield back my time.

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

PRESIDENT NIXON'S BUDGET MESSAGE

Mr. HUMPHREY. Mr. President, I wish to use my time to make some observations about the President's budget message and, hopefully, to outline some of the things that we might do in terms of fiscal responsibility here in Congress.

The President's budget message—any President's budget message—is more than a document of figures and fact. It is, in the best sense of the phrase, a

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political document. It represents the President's view of the Nation, his priorities, his view of what our country's commitments should be, the responsibility of Government to meet those commitments and, of course, the ideology or the philosophy of an administration.

It was with a very deft political touch that the President submitted a new budget to Congress this past week. A budget designed to capitalize on citizen discontent with Government, to put tax reformers on the defensive by substituting spending reform for tax reform, to blame Congress for the current budget squeeze, and to reduce Federal responsibilities with the admonition that all Federal programs are essentially negative and ill-founded.

The trouble with the Nixon budget is that politics will not solve complicated national problems.

Like all budgets, this one is controversial. That is to be expected. Out of the controversy, I will note, some good will likely come. Congress, for example, will be compelled to reorganize its budget and appropriation-making machinery. At least, I hope we will. Congress will have to establish new mechanisms of budget analysis and program evaluation. We think we should do that promptly. Congress will have to realine its committee jurisdiction better to coordinate, analyze, and legislate public policy.

It is to be noted that the House of Representatives is already moving on reform and reorganization. Also, the Senate Democratic caucus, in session only yesterday, has expressed its will and its intention to develop new mechanisms and procedures for more effective budget control, analysis, and evaluation of programs.

But I rise today to take issue with the thrust of the President's budget. The priorities of the President's budget are, in all too many instances, the wrong ones. The Nixon budget is one of deception, deficits, neglect, big business favoritism, and domestic disengagement.

DECEPTION

First: Rural electrification:

Let us take a look at the first item, deception.

Above all, the budget message should be at least frank, forthright, informative, and honest. Those qualities are missing from the Nixon budget.

The President and his subordinates have characterized, for example, the rural electrification program as wasteful, as subsidizing "country clubs and dilettantes." Through unilateral Executive action—illegal Executive action—the President has eliminated the 2-percent REA loan program.

I addressed myself to this matter only today in the Committee on Agriculture and Forestry and made note of the developments that have taken place in reference to administration commentary on rural electrification.

The Rural Electrification Administration was not set up just for farmers. It was set up to provide electric to all "unserved persons in rural areas." In fact, the words "farm" and "farmer" do not even appear in the Rural Electrification Act. Yet, we have seen the most flagrant type of propaganda about this one program.

The Secretary of the Treasury, Mr. Shultz, appearing on the "Today Show" early this week, said:

> Eighty percent of that money (REA Loans) goes into rural areas; some of it helps country clubs and things like that.

President Nixon, just yesterday, in a press conference, said:

> Eighty percent of the two percent money goes for country clubs and dilettantes, for example, and others who can afford living in the country.

Yet, the Secretary of Agriculture, Mr. Butz, on June 4, in a press conference, said:

> Twenty percent of our present meters are farmers. The rest are rural residents, are retirees, are urban workers (living in rural areas) and are industries located in REA territory.

Mr. President, the reason I make note of this one little program relating to rural electrification is that we are seeing here the distortion of the truth by the use of carefully worded sentences, the use of words that evoke certain reactions, such as "dilettantes" and "country clubs."

The fact is that less than one-tenth of 1 percent of the energy that is generated by REA goes for recreational purposes. Whatever may be the result of a rural electrification program, I think it should be noted that Congress passed the law. The law never has been repealed by Congress. The law provides for 2-percent-loan money. Whether that is right or wrong is up to Congress to determine. If the President does not think it is right, he could have vetoed the act when it was reauthorized.

I say that a President who can tamper with interest rates that are prescribed by law and raise those interest rates or ignore them may decide to tamper with tax rates prescribed by law. Perhaps the President will come to the conclusion that the tax rates are not right. If he can do it with REA interest rate loans, which are in a sense taxes—interest is a tax on money—then I imagine the next thing would be that somebody over there in the executive office will talk to the President about it and say, "Mr. President, we don't need to go to Congress to talk about taxes. We'll just adjust the rates."

My argument with the President of the United States on these programs is that he terminates them after they have been passed by Congress and funded by Congress. "Executive arrogance" is the only way to describe it—termination of programs that are ongoing, authorized, passed and funded, signed by the President, proclaimed by the President in election years, and then terminated after the election is over.

This country is not ready for one-man rule, and this country is not ready for executive edict, and I hope and pray it never will be.

Congress may at times pass laws which the President does not think too wise. He can veto them. If Congress overrides the veto, then he is under obligation of law to carry out the law. Many citizens obey laws in this country which they do not think are very good. The President of the United States said that he would not grant any general amnesty to draft evaders. I happen to believe that young men who avoided the draft should accept some minimum years of national service. There were men who did not want to go into this war. They said they thought the law was wrong and that the wa. was wrong. So they took off on their own. In a sense, that is what the President of the United States is doing with these laws of ours.

He does not like the rural environmental assistance program. He cancels it. He does not like the rural housing program with subsidized interest rates. He cancels it. He does not like the rural electric and rural telephone program. He cancels it. That is just like avoiding the draft. It is a violation of the law.

2. MEDICARE

Let me speak of another item, Mr. President—medicare and aid to the elderly.

The Secretary of the Treasury said that funds for the elderly are being increased. What he did not say was that medicare costs under the Nixon administration are also going to jump almost $700 million, right on the backs of the elderly. The largest group of poverty people in this country are the elderly and most of these are people on medicare.

This administration, which can bail out Penn Central in the name of helping the economy; this administration which can bail out Lockheed; this administration, which can bail out Grumann Aircraft or some other aircraft company, does not seem to worry about whether that has any effect on inflation, does not seem to worry that that might be a part of the reason why the budget ceiling is hard to maintain.

This administration loads it on the backs of the poor, on the backs of the elderly, saying, "After the second day in a hospital, you will pay 10 percent of the costs." That is $700 million on the backs of the elderly people of this country. And they claim that they are giving more money to the old people under this budget. Why? Because Congress legislated a 20-percent increase in social security, which the administration did not want, but eagerly embraced by the President in October, when he was running for election.

I suppose we ought not be surprised. The President never supported, and his party never supported medicare. They fought it hard and long. Now they are trying to weaken it. That traditional Republican Party politics.

The President's moratorium on low- and moderate-income housing is another gimmick. The Nixon administration has mismanaged these programs for 4 years, a period during which they had widespread housing scandals. Now the administration decides that the programs have failed and that they have to be cast aside. Perhaps they ought to take a look at their management techniques.

The primary problem in low- and moderate-income housing is the failure of the administration to insist on careful home inspection, and the failure to develop program control methods that

would prevent land developers and real estate operators from making a fast buck. There is nothing wrong with the housing. The need is there.

God only knows it is there. But this administration has been a little slow to move in on some of the people who are willing to make a fast buck.

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

Mr. ROBERT C. BYRD. Mr. President, I am to be recognized under a special order. I yield my time to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

3. HUMAN RESOURCE SPENDING—MORE DECEPTION

Mr. HUMPHREY. Mr. President, a third area of deception is the administration's contention that human resources now accounts for 47 percent of the budget—outpacing defense spending, they say loudly. The administration does not tell us that more than one-half of this human resource spending covers social security, civil service, and retirement pension funds.

If we look at what the Federal Government spent in housing, agriculture, education, health, transportation, welfare, and the environment, we find it is only 22 percent of the budget. That is a far cry from massive social spending so decried by the Nixon administration.

4. POLLUTION CONTROL

Then, take a look at the administration's efforts at pollution control and you really see deception. The administration said it is increasing spending for pollution control, at the same time we know that more than one-half of the outlays for water pollution control programs are not available for obligation. How is that sleight of hand accomplished? Simply because the administration is obligated to reimburse State and local governments for the Federal share of past water and sewer facilities for which construction has been or will be completed.

5. SOCIAL SERVICES, REVENUES, WHITE HOUSE PERSONNEL

There are other examples of deception. In one case the budget claims a savings of over $2.7 billion for social services, but a ceiling of $2.5 billion was established by Congress last year.

So the $2.7 billion figure is just thin air. Some people said they wanted $2.7 billion more than Congress authorized, so the administration said, "We did not give it to them so there is a savings of $2.7 billion." Ridiculous.

Congress set the social service budget at $2.5 billion. The administration said that the Governors want it at $5.2 billion. So the administration claims credit for saving money. That is really stretching fiscal integrity.

In another case the budget overestimates fiscal 1974 revenues by several billion dollars, because its figures are calculated on a definition of full employment at 4 percent, a goal the administration has clearly abandoned recently in the President's economic message. The budget comes here based on 4 percent full employment and 2 days later the President's economic message comes here and it says that is not attainable.

Finally, after making many statements about cuts in the executive office of the President, we find that even with the cuts, the President's office will still contain 16 percent more staff than the number of people in the President's office in the final year of the Johnson administration.

DEFICITS

In connection with deficits, the President's budget is out of balance. He would have people believe it is in balance. He would have people believe that if we do not take the $268 billion ceiling, taxes will increase. The presumption is that there is enough revenue to pay off $268 billion. That is as phony as a $3 Confederate bill. The President knows this budget is out of balance by $13 billion under his own arithmetic. Every single budget sent here by the Nixon administration ends up being out of balance by more than that. More than $86 billion has been added in deficit spending, and the President accuses the Congress of being the big spender. The fact is that Congress has cut the budget every year of the Nixon administration. There have been approximately $20 billion in cuts. The Congress has cut every President's budget for the last 26 years. Congress has not been on a spending spree.

If there has been any spending spree at all, Congress has had a good partner—the President has been leading the race.

1. SPENDING CEILING

The President asked for $268 billion. What is so magical about that number? Why not $265 or $275 billion? What is justification for $268.7 billion, especially when the budget is out of balance by $13 billion?

Congress is not opposed to setting a spending ceiling. Congress has done so before. The point is that Congress and not the President should establish that figure.

The President should admit that continued deficit financing on the massive scale he has proposed in every one of his budgets is dangerously inflationary. He should have the courage to come to Congress and the American people and ask for revenues needed to finance the Government, or quit talking about fiscal responsibility.

2. ECONOMIC MISMANAGEMENT

Mr. President, the fact is that the Nixon administration has mismanaged our economy. Inflation is still high. Unemployment still runs above 5 percent. Interest rates are high. Trade balances worsen—over $6.5 billion this year. Plant capacity is still under-utilized. All of this points to more than $175 billion in lost GNP, and loss of revenue to the Federal, State, and local governments of more than $27 billion. That is the grossest form of economic mismanagement.

3. TAXES

There are still corporations that pay no corporate tax, and during the Nixon administration Republican favoritism of big business has promoted a tax law change in 1971 that even further decreased tax liability. Right now corporate taxes are only one-third of the individual income taxes collected and less than one-half of the total of payroll taxes. Yet there is not a word about making changes; there is not a word about closing tax loopholes, and there is not a word about reform. Maybe if those loopholes were closed, there would be revenue to balance the budget or to fund certain of these programs.

There is no word on property tax reform. Yet the fact is that with the cutbacks in education, health, and housing, as outlined in the Nixon administration, property taxes will likely have to be increased. The money to carry on these local community projects has to come from somewhere.

Take education. Under the Nixon administration, the Federal Government is retreating in its educational responsibility. Local communities have to make up for that effort. That means more property taxes to pay for the schools.

Take a look at vocational education. Vocational education funds are established across this country. They have been a godsend to educate hundreds of thousands of young men and women.

As these people graduate from these schools, 90 percent in many States, and in my State the figure is 95 percent, of the graduates of technical schools get jobs when they leave the schools. Mr. Nixon's budget cut the heart out of this program and cut the heart out of the manpower training program. It proposes to retreat rather than to go ahead. If a community wants to maintain its Vo-Tech school, it is going to have to raise taxes.

There is no mention of payroll tax reform. Yet the payroll tax is a most regressive and burdensome tax.

In short, it appears to me that the Nixon administration is fulfilling its pledge to big business campaign givers by not pressing for tax reform—even though last year it said it was going to do so. Last year they said, "Hold off." They told the Congress to "Hold off and we will do it this year," and there is no proposal before us. But, we should not be surprised—its traditional Republican big business policies at the expense of average working family.

The only sector not neglected in that budget is that of defense. The defense budget does not reflect a peacetime budget. It is nonsense to increase defense spending by nearly $5 billion in a time of reduced international tensions.

Every Member of this body knows there have been flagrant examples of waste in defense procurement. That is not to say on my part that we should have weakened defenses. It is simply to say that the time has come to modernize our procurement practices and quit the nonsense of going through all the purchases we make and find out the price has gone up 100 percent.

DOMESTIC DISENGAGEMENT

The Nixon administration budget does not reflect any constructive replacements for what the President has hacked to death in the domestic area. There has been domestic disengagement—not only disengagement from Vietnam, but dis-

engagement, may I say, from Chicago, Detroit, Cleveland, Los Angeles, New York, San Francisco, Boston, and Washington—disengagement from rural America. It is pulling back and saying to the mayors and Governors, "You take care of it." If that works, the administration will say, "You see, we were right." If it does not, it will say, "It is their fault."

We know there are serious problems of crime, drug addiction, transportation, pollution, urban sprawl, filth, and deterioration. They require the total cooperation of Federal, State, and local governments. They require cooperation of the private sector if they are to be solved. That partnership is not in this budget.

Just as Mr. Nixon solves the problem of housing by abandoning programs, he appears to solve our domestic problems by dumping the problem back to the States and local governments and saying in effect, "You solve them."

Welfare reform was once the Nixon administration top domestic priority. It is not even mentioned nowadays. Yet welfare rolls continue to climb—6 million alone during the first term of Richard Nixon's presidency.

The plain fact is that the President is trying to get arm's length away from domestic problems. He does not seem to care about the problems in Mankato, Pipestone, Alexandria, or Minneapolis, Minn. If he does, he ought to listen to the farm people in my State. He ought to listen to the commissioner of education from my State. We have equalized educational opportunities in our State by increasing our State income tax. We are going to have to cut back on vocational education and education of the disadvantaged, because Federal funds have been cut drastically. Those now have been factored into the total State budget. Taxes will have to go up—but not Mr. Nixon's taxes, not Washington's, but in the State capitals.

NIXON BUDGET—A BUDGET OF NEGLECT

Mr. President, a budget should be a document that shows how a government cares not only about the present but about the future. This budget does not show that. A budget that can ignore some of the basic educational and health needs of our country, or a budget that can really, for all practical purposes, neglect the cry of the poor in this country, does not measure up to the standards of good decent and compassionate government.

I want to close by saying again there are many things in this budget that we can commend at least as a challenge to the country. I do not say every program we have adopted in the past is a good program. We ought to evaluate each program each year—a constant system of evaluation. But I am not about to abandon programs that have shown hope and promise until at least there is some alternative suggestion offered.

What is the alternative suggestion for rural housing in America—where the worst housing is to be found? What is the alternative to the care of our elderly—cutting off and increasing the cost of medical care for the elderly? What is the alternative to unemployment? Is it cutting off the manpower programs, reducing vocational education? I do not think so.

I want to repeat, I am not going to let the big lie go through this country. It is not Congress that has been fiscally irresponsible. It is not Congress, as the majority leader has pointed out time after time, that has willy-nilly gone over the President's budget request. What Congress has changed is the priorities. It has decided to cut some money out of space and foreign aid. It has decided to cut $5 billion out of the defense budget. It decided we want to put it into education and health and manpower training. Congress saw fit to put it into rural development. That is what the President does not like. There is a battle on over priorities. It is the same budget that cuts the heart out of programs for the disadvantaged, after the President spoke here a year ago, saying he was going to pour in Federal resources, and took credit for it. He puts $5 billion more into the defense budget. It is a difference over how we see this country.

I am going to call upon our colleagues to put our house in order first. Let us arrive at what we believe is a sensible spending ceiling. Then let us look at the tax laws. Let us not run away from tax reform. Let us take a look at the needs of the country. Let us take a look at a country that is privately rich and publicly poor. Let us see what we need to do about pollution control, the needs of our cities, the vast needs of rural America, the health needs of our people. Let us see what we are going to do about the hospital needs of our people.

I am not going let the working families of this Nation pay the price the Nixon administration is asking—neglect, cutback, abandonment. Let us see what we can do to make this a better country.

(The remarks Senator HUMPHREY made at this point on the introduction of S. 705, the Employment Opportunities Act of 1973, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BROCK. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for Mr. STEVENSON today appear immediately after the order for Mr. MCCLURE, that the order for Mr. SCOTT be vacated, and that Senator HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes in lieu of the position in which Mr. STEVENSON now is found under the order.

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

THE BUDGET

Mr. BROCK. Mr. President, I have listened with a great deal of interest to the distinguished Senator from Minnesota. There are many things he said with which I agree. I think he knows, as most of us do in this body, that I have long been an advocate of congressional reform and a legislative budget; but I find it somewhat strange that the criticism of the President, which is mounting daily, is directed only to one root of the problem.

I disagree with some of the impoundments. I am going to disagree with some elements of the budget very specifically, and I shall diligently pursue my own course in that regard; but I think it is hard to understand how the Congress can be critical of the administration for grabbing, if you will, some of its power. I do not think the President has kidnaped the baby of constitutional prerogatives and power. I think the Congress has abandoned that child on the doorstep of public responsibility.

We do not have the machinery for budget preparation. We do not have any mechanism for it. Sometimes I wonder if we have the will to establish national priorities and national requirements, because it requires difficult decisions, and we have to face up to some facts. We have to have some orders of priority and finally withdraw some things which cannot be done this year.

Congress has been unwilling to do that. It passes every bill willy-nilly without any consideration for its cost in the context of the whole or the limits of the resources of the people of this country. It is time that we look at our house and get it in order before we start casting stones.

On Monday of this week, the President submitted to the Congress his proposed budget for the fiscal year which begins on July 1, 1973.

I have watched the reaction to the President's budget. Immediately, many people jumped up to announce what an awful thing it was. All these programs would be cut. All these employees would be fired. All these initiatives would be abandoned.

I have looked high and low, and I have not seen any sign of a comprenhensive alternative budget. There is a reason for that—there is not one.

The Congres does not have one. The Congress does not have any means of producing one. The Congress, for heaven's sake, has not even gotten around to completing action on last year's budget—the one that expires 5 months from today.

Yet we jump up and criticize the President's budget for being too low, too high, too this, too that. On what rational basis can we make such a statement? Is the budget too low because it creates a great surplus of funds which ought to be spent for the benefit of the people? Hardly. The President's budget shows a $12.7 billion deficit.

Is the budget too low because we have examined each of its constituent parts in detail, made our own judgments about needs in each area, added up the totals, and found that we come out with a higher figure than $268.7 billion. No. No one here has done that.

If either of these situations were true, then I would suggest that we might have an intelligent debate on the budget and

the national priorities for which it stands.

The simple fact of the matter is that Congress is not equipped to thoughtfully analyze the budget. We do not have the procedures, we do not have the staff, and I am not even sure Congress has the will.

If we ever did get into the position of being able to produce a legislative budget, we would be forced to make some very hard decisions, setting priorities among competing plans for utilizing revenues of the Federal Government which are, in fact, the taxed resources of the American people, although some people seem to consider the Federal budget as a money tree. Because people are sick of ever higher taxes, I believe many hesitate to accept that responsibility of determining priorities and making the tough decisions that go with it.

Hopefully, I am not among them. I have proposed legislation which would give us the procedures and the staff we would need to get into the budget business and determine the national needs in the country, and consider each bill not as if it were a separate, isolated piece of legislation that affected nothing other than itself on its designed program, but as if every piece of legislation were to be considered in the context of the whole and in the context of the needs and aspirations of the people of this country. But until that happens, I suspect we will continue to plod along, content with the inefficient ways of the past and criticize those who do not preside in this body.

Individuals can hurl barbs at the President. That is fun, but little is accomplished in the process. Congress does not reform itself. It fails to establish national needs and priorities, and on we go.

For once, I would like to commend the President for trying to hold the line on spending. If anything, I would like to see a budget even lower than the one he proposes.

I believe that there is one basis on which to judge the overall total of a budget. And that is by the overall total of the revenues.

I have no better figures than those of the President himself. His budget shows total revenues of $256 billion. That means his budget is $12.7 billion in the red. And he is my President, and I support him. But that simply cannot be justified in times of prosperity, and especially in inflation-plagued times like these. How anybody can say that a budget $12.7 billion in the red is too low is completely beyond me.

If we examine the budget in greater detail, with the minimal staff capability that we all have, each of us will find some specific areas in which we would propose additional expenditures. But to be intellectually honest and fiscally responsible, we are going to have to more than balance those increases against cuts elsewhere.

So I do not want to be too fulsome in praise of the President for holding the line on spending. Being presented with a budget $12.7 billion in the red, after all, is not really that good. The President's budget is a lot better than it could be, but not as good as what I had hoped.

The key point is this: Until Congress is prepared to assume some real responsibility for preparing the budget or proposing its own alternative budget, I think we are on very thin ice in making the kinds of criticism I have heard leveled at the President this week in committee, before the press, and occasionally in the Chamber of the House and Senate.

Until we are willing to say that we will accept the responsibility because we are the people's representatives and we are the instruments of reform of a free society, and until we are willing to reform ourselves, I think it ill behooves us at this time to criticize anyone.

ORDER OF BUSINESS

The PRESIDING OFFICER. In accordance with the previous order, the Senator from North Carolina is now recognized for not to exceed 15 minutes.

THE PRESIDENT'S BUDGET

Mr. HELMS. Mr. President, I commend my good friend, the Senator from Tennessee, for his calm and reasoned remarks. I associate myself with his wise counsel in this regard.

Mr. President, I agree that President Nixon deserves good marks for his bout with the budget. After wrestling with this problem for 4 years, he has finally been able to get a firm grip on one of the most difficult tasks of modern government. For the first time in many years, Congress has been presented with a budget moving toward controlling inflation and making an attempt to match spending with income. Furthermore, the President has a plan to end deficit spending by 1975.

I think we should recognize that for the President even to make such an attempt is a healthy step in the right direction. His budget carries out the philosophy of self-reliance which he outlined in his inaugural address scarcely more than a week ago. At that time he said:

> We have lived too long with the consequences of attempting to gather all power and responsibility in Washington. Abroad and at home, the time has come to turn away from the condescending policies of paternalism—of "Washington knows best." . . . Let us encourage individuals at home and nations abroad to do more for themselves, to decide more for themselves. Let us locate responsibility in more places. Let us measure what we will do for others by what they will do for themselves.

This is the philosophy which the President followed. I must admit with the Senator from Tennessee, that I find it discouraging that even under the President's budget, spending continues to rise by almost $19 billion. The 1974 budget still projects a deficit of $12.7 billion, and we know that even to hold the deficit to this unacceptable level, Congress will have to show remarkable restraint—a virtue that has not been favored much in recent practice. Yet we must also recognize, as the President did, that 75 percent of Federal spending is "built in" and, therefore, for practical purposes, uncontrollable. Where the budget process allowed discretion, the President has attempted to exercise it. The relatively uncontrollable outlays decline in the President's plan from $81.2 billion in 1972, to $75.8 billion in 1973, and to $75.2 billion in 1974. The President has simply tried to apply a system of priorities and to cut out programs which appeared to have run their course or never to have proved themselves. His first target seems to have been those programs where the help went less to those who needed help than to the organizers and promoters of the programs.

It is only natural in the push and shove of the democratic process that some people will feel that a particularly vital program—that is to say, one that benefits them—has been swept away in the general housecleaning. I would suggest in response that Congress has only itself to blame, because Congress has lacked the courage to consider its own priorities. If there be any disagreement with the President's choices, then let us make a reasoned choice ourselves.

I would like to point to one of the 70 programs which the President eliminated from his budget as a clear example of sensible priorities—the dismantling of the Office of Economic Opportunity. Without touching upon the controversial aspects of its work, the OEO has had ample opportunity to prove itself. The community development projects have had 7 years to demonstrate to the local people that such programs can actually help better their lives. If such programs are worthwhile, then the States and communities can now make the decisions on funding them. I will add, however, that I have been singularly unimpressed by the work of the legal services program, and that its basic concept of using Government programs to attack other Government programs flies in the face of representative government. I will strongly resist any attempt to establish the legal services program as an independent corporation, particularly if it is structured as a freewheeling operation. This is precisely the time for Congress to think ahead about the probable outcome and value of such programs.

The constructive response for Congress to the budget is to set its own priorities in order, and to reform our own habits of open ended spending. As the President said, the projected budget margins for 1975–78 are "quite precarious." It is up to us to keep them from breaking down.

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

Mr. HELMS. I yield.

Mr. BROCK. I compliment the Senator from North Carolina on his remarks. I think his statement indicates how much we need his services here, and I thank him.

Mr. HELMS. I thank the Senator from Tennessee.

Mr. President, I yield the floor.

ORDER OF BUSINESS

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the able Senator from Idaho (Mr. MCCLURE) may

proceed at this moment, without prejudice to the order recognizing the able Senator from Wyoming (Mr. HANSEN).

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

THE BUDGET

Mr. McCLURE. I thank the distinguished majority whip for accommodating both myself and the Senator from Wyoming.

Mr. President, I would join with my colleagues in the comments that have been made, and commend the Senator from Tennessee and the Senator from North Carolina for the perceptive remarks they have made on what I think is one of the most important subjects confronting this country at this time.

Mr. President, with the war behind us, the No. 1 problem facing this Nation is inflation. It robs the poor and it robs the rich. It expropriates property. It destroys initiative. If unchecked, it will also destroy the greatest economic system in the history of the world.

But when we get to the question of who is responsible for it, that is when everyone seems to run for cover.

It is clear to me, however, that inflation is a responsibility of the Congress. The trouble is that Congress will not accept the responsibility. Two examples come quickly to mind.

First, according to the Joint Committee on Reduction of Federal Expenditures, Congress has increased the total budget authority for fiscal 1973 by $8.6 billion. And that is inflationary.

Second, on two occasions Congress passed a Labor-HEW appropriations bill so far beyond the budget that it forced a Presidential veto. And then, when we fell back on the continuing resolution device, the Congress even said to the Executive, "Go ahead and fund these programs at the budgetary level." Congress seemed not to have a mind of its own.

I do not pretend for 1 minute that the President's spending priorities are the same as my own. But after Congress has done such a great job of passing the buck to the Executive, it comes as pennyante complaining to fault the President. After all, I would think that it is our common goal to reduce expenditures, decentralize the bureaucracy, and balance a budget over which Mr. Nixon has, in truth, very little control.

One person cannot really speak with any great sense of expertise about this budget, for any document which requires 1,119 pages to explain the expenditure of $268 billion cannot be easily digested overnight. Nevertheless, while applauding the President's efforts to bring about economies, I cannot help but consider those actions as a monument of sorts to the inability or unwillingness of Congress to assume its proper legislative responsibility. I may find I disagree with the manner in which the ax has fallen, but let us not forget for a moment that it was this body which handed President Nixon the ax.

There are games we play around here which might not be fully understood by the people of Idaho, as I would like to explain them now. For instance, there is the congressional game of fiscal responsibility: Increase appropriations beyond the President's budget, legislate a spending ceiling, then wail loudly when the President makes his cuts.

Another variation is to forfeit our legislative responsibilities to the White House, then cry "foul" over the Presidential impoundment of funds.

Just as those who were critical of Mr. Nixon's handling of the war were equally critical of the peace settlement, so it is in economic matters. The target is not inflation. The target seems to be Richard Nixon.

But the President has the best of it. His objective—slicing the deficit from $24.8 billion last year to $12.7 billion this year and then to zero the next—presumes the willingness of Congress to appropriate funds within the limitations of the budget. So, the budget is not so much a balance sheet as it is a challenge to Congress to assume its proper role in protecting the Nation's economy.

I never thought I would see the day when people would feel somewhat relieved to find the Federal deficit to be only $12 billion. Considering the deficits we have had to live with recently, one that represents but 4 percent of the whole budget very nearly brings a sigh of relief. But only nearly.

Those who criticize the President's budget are, in a sense, right. It is up to Congress to take the lead. It is Congress which should eliminate the possibility of a tax increase, a hike in the interest rates, and a continuation of the inflationary forces which beset us.

When I was campaigning for the seat I now occupy, I was often asked to identify the issues which motivated me to make the race. I always replied that I thought the legislative branch should make every effort to reclaim lost responsibilities from the Executive, that the Government should not spend more than it takes in, that deficit spending inevitably means inflation, and that inflation is the cruelest tax of all.

I, for one, accept the challenge that the budget presents.

I will shoulder my share of the responsibility.

I will work to further my own order of priorities.

And I will expect each of my colleagues to do the same.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. CLARK). Under the previous order, the distinguished Senator from Wyoming (Mr. HANSEN) is now recognized for not to exceed 15 minutes.

A BALANCED BUDGET

Mr. HANSEN. Mr. President, I am pleased to join with my distinguished colleagues in this discussion of the President's budget requests.

Some commentators and pundits of our land have chosen to regard President Nixon's budget as a challenge—a laying down of the gauntlet—to Congress. Perhaps they feel they must manufacture a dramatic situation of imaginary conflict in order to get the attention of the American people.

But the American people will see no drama in the budget President Nixon has submitted. They will see it for what it is. It is a practical attempt, carefully considered in almost every aspect, to return this country to a balanced budget—to put our house in order. And there can be no doubt in this Chamber that the vast majority of American people believe in a balanced budget. Some are old fashioned enough even to believe that we should strive toward a budget surplus in order that the United States could start paying off the national debt.

President Nixon's budget submission is not a shortsighted plan. It is aimed at achieving goals—now and in the future—and by constraining the increased spending syndrome that has become almost modus operandi in the Federal Government, the President has outlined plans for a balanced budget in fiscal year 1975.

This is the first time since I came to the Senate that a detailed preview of the budget for the following year has been presented by a President. It may well be the first time in our history. But I believe it is sound principle. In Wyoming, the budget is submitted on a biennial basis. It requires some planning ahead, and planning ahead has paid off well for Wyoming. Our State is one of the few in the Nation that is not in debt—that operates in the black. The State constitution prohibits us from operating otherwise. President Nixon certainly is to be commended for his planning ahead at the national level.

Achievement of the balanced budget goal for 1975 actually is a 3-year plan, as outlined by the President. It requires holding 1973 spending to $250 billion, and achieving full-employment balance in 1974 and 1975. President Nixon has recognized that the task is difficult, and we know it will require the cooperation of the Congress and the understanding and support of the American people.

The President's determined efforts to keep expenditures this fiscal year within a $250 billion limit are criticized by many in the Congress as being an unwarranted, demeaning, and illegal usurpation of the constitutional rights of Congress.

Sometimes, Members should stop talking long enough to let the echo of their strident voices fade away, and just listen.

If they did, the ensuing silence would overwhelm them.

President Nixon is doing no more than what most other Presidents have done. There is no public outcry supporting the aggrieved Congressmen. There is no national concern over the fallacious charge that the President is arrogating unto himself the rights of the Congress over control of the purse strings.

And most Members of Congress, if they are fair and honest, will recognize that all we need to do to have full control over spending is to apply these restraints on spending ourselves.

If we hold down Federal spending, the American people can be confident that higher taxes will be avoided. And by

holding the line on Federal spending, we greatly improve the chances of keeping a tight rein on the rate of inflation. Every one of us in the Senate is going to have to deal with his natural zeal to develop new programs—to extend the authority of the Federal Government into new areas. Such actions, however meritorious they may appear to individuals or to certain groups, cost money, and the only source of this money is from the taxpayer. In my judgment, the taxpayer will appreciate more than anything the Congress can do, a cut in Federal spending that can in the future lead to tax relief.

President Nixon cautioned that there is—in his words—

> Very little room for the creation of new programs requiring additional outlays in 1975, and no room for the postponement of the reductions and terminations proposed in this budget.

The President needs the support of the Congress. He stated his purpose concisely, and I quote from his budget message, the following:

> The 1974 budget fulfills my pledge to hold down federal spending so that there will be no need for a tax increase.
>
> This is a budget that will continue to move the nation's economy toward a goal it has not achieved in nearly two decades: a high-employment prosperity for America's citizens without inflation and without war.

If some Members of Congress should be successful in their claimed efforts to force President Nixon to spend all the funds appropriated by Congress, the American taxpayer would face disaster.

We recall the figures released earlier this year by only one department, the Department of HEW, showing that if every program authorized for that department alone were implemented fully, the national budget would be more than doubled.

Yet Congress has refused to exercise fiscal responsibility, forcing any President to cut programs to prevent economic disaster.

Nevertheless, some Members have the audacity to fault the President for cuts that he has to make.

According to the Department of HEW reports that I read, if all eligible citizens demanded all the programs that Congress has made available over the past 10 years, it would cost an additional $256 billion annually just to run that one department alone.

We will recall that President Nixon's January 1972 budget request for operations of the entire Government for fiscal year 1973 was only $246.3 billion.

Now the President is striving to hold 1973 expenditures at the $250 billion level.

Over the past 20 years, all Americans should know that expenditures by the Department of HEW have risen from about $5.3 billion annually to almost $85 billion.

The American people have the commonsense to figure out that the money some of the big spenders in Congress advocate spending is tax money collected from the working men and women of this country. The American people have enough experience in trying to balance the books for their families and businesses readily to understand that it is one thing to come up with a theory that promises a Government cure for all their ills but that it is quite another to come up with a plan that can be paid for without bankrupting the American people.

I am sure that if we stop talking long enough and take time to listen to the voices of the people throughout America, there will be no doubt that an overwhelming majority of Americans are strong in their support of the budget that has been presented by the President of the United States. I hope that we will have the good sense to heed not only the voice of our President but to heed the concerns of our fellow Americans as well.

Mr. SCOTT of Virginia. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. SCOTT of Virginia. Mr. President, I share the thoughts of the distinguished Senator. I do have some reservations, however, that the budget is still too high.

I do not like the concept of a deficit of $12.7 billion or the concept of a full employment budget. To me, when we talk about a full employment budget, we are just giving another name to deficit financing that we have had for the past 30 or 40 years, to a very great extent. I cannot see any businessman operating his business on the basis of full production. This looks like a sort of parallel. No businessman would have his inventory based on the amount he would produce if the factory was operating at full capacity, if, in fact, it was operating that way.

We still have 5 percent unemployment, and it does not seem reasonable to me to have a budget based on full employment. To put it another way, we are paying interest of something more than $26 billion this year on the national debt; and we could have a balanced budget and still have a surplus of $13 billion or so if we had not had deficit financing in past years.

I think we have to come to the place where we return to the situation of the Government spending no more than it takes in, because it is a terrible burden to be paying $26 billion during the 1974 fiscal year as debt surplus alone; and we will continue to increase this debt surplus if we continue the concept of deficit financing by any name, whether we call it the full employment budget or anything else.

If there is any criticism of the President, my criticism would be that he has not gone far enough. But I would commend him on the start he has made and encourage him to go further, and at least this one Senator will work with him in further cuts in the budget.

I thank the Senator for yielding.

Mr. HANSEN. I thank the distinguished Senator from Virginia very much.

I think a great many businessmen, a great many realists throughout America, share his convictions. They are concerned about the continuation of programs and expenditures that far outstrip tax revenues. They know that if they were to run their own businesses in the fashion that we run the Federal Government, they would be in deep trouble.

I pledge my best in concert and in harmony with the distinguished Senator from Virginia to help work toward the time when this country will be able to pay for its outlay of expenditures each year by the revenues it collects for the appropriate period of time from which those revenues must come.

As I indicated in my earlier remarks, that is precisely the situation in Wyoming. I recognize that there can be unusual circumstances that have developed. I am on a committee to consider the termination of the national emergency that I believe may have been recognized and by action of Congress was begun back in President Truman's administration. I know that unusual circumstances can arise, but I would hope that we would join in moving toward the full implementation of the concept which will say to the American people, "Let's raise money to pay for the programs for which we spend money from year to year."

Mr. SCOTT of Virginia. Mr. President, will the Senator yield further?

Mr. HANSEN. I yield.

Mr. SCOTT of Virginia. It is nice to know that the two of us—and I am sure many other Members of this body—share this common belief.

It just seems to me that the American people are ahead of Congress in that they are concerned about the high cost of Government and the high taxes they have to pay. In fact, in my recent campaign I found that they were more concerned about this than any other matter within the State of Virginia. I wonder whether the time will come when a majority of Congress, particularly the Senate, will be in accord with the thoughts of the American people.

I thank the distinguished Senator.

Mr. HANSEN. I would like to make this final observation, Mr. President:

The realization seems to be spreading throughout the country today that Congress and Government cannot solve all the problems known to mankind simply by appropriating money, creating new programs, and employing additional hundreds of new bureaucrats.

It is our first responsibility—and I think it is obvious in the statement that the President has made—to do all we can to take care of ourselves. If each person in this country were to consider that his first obligation is to try as best he can to take care of himself, I think we would go a long way toward obviating the seeming need for many programs that are recommended and urged upon the people by Members of Congress.

ORDER FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business today not be laid before the Senate until the expiration of all 15-minute orders and the period for the transaction of routine morning business.

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

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 o'clock meridian tomorrow.

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

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL MONDAY, FEBRUARY 5, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stand in adjournment until 12 o'clock meridian on Monday next.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged against the time allotted to the Senator from Illinois (Mr. STEVENSON).

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

The legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized at this time for not to exceed 3 minutes, and that the time be charged against the time of the able Senator from Virginia, under his own order.

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

COMPULSORY SCHOOLBUSING

Mr. HARRY F. BYRD, JR. Mr. President, in connection with the keen interest on the part of the people in trying to do something about the compulsory busing of schoolchildren for the purpose of creating a racial balance, I invite the attention of the Senate to action taken 2 days ago by the Senate of Virginia. The Senate of Virginia passed, with only one audible dissent, a joint resolution calling for an antibusing amendment to the Constitution.

I think it is very significant that the elected representatives of the people in the Senate of Virginia took nearly unanimous action in requesting a constitutional amendment to outlaw compulsory busing of schoolchildren for the purpose of creating an artificial racial balance.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois (Mr. STEVENSON) is recognized for not to exceed 10 minutes.

(The remarks Senator STEVENSON made at this point when he introduced S. 708, the Federal Handgun Licensing and Registration Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

A LOOK BEYOND VIETNAM—A CALL FOR RECONCILIATION

Mr. BROOKE. Mr. President, I address my colleagues today with both a sense of relief and expectation. I share with all Americans the relief that comes with the imminent termination of our military involvement in the Vietnam tragedy. I speak with the expectation that the period ahead will be marked not by the acrimonious politics of recrimination and debilitating self-doubt, but rather by the healing influence of national reconciliation.

It would be understandable if, in the aftermath of Vietnam, America sought respite from the burdens of its many responsibilities. The shock engendered by Vietnam, the longest of America's wars, has been great. Fifty-six thousand U.S. servicemen have died in Vietnam, hundreds of thousands have been injured.

Confidence in the responsiveness of government to the will of the people has been seriously eroded. Distrust of the military has grown. Belief that America represents a unique force for achieving freedom and justice in the world has considerably lessened, both at home and abroad. Yes, a desire for respite from our burdens would be understandable. However, America's unique place in the world and its promises, both to itself and to others, preclude this. We cannot shun our responsibilities without compounding and exacerbating our national problems and the world's ills.

The tasks that lie ahead of America are many and complex. The first and, indeed, the most pressing, is the need to achieve reconciliation within.

There must be a reconciliation of generations. The idealism and energy of the young must combine with the hoped-for wisdom of age if we are to be equal to our tasks. "A house divided against itself cannot stand:" nor can a nation characterized by distrust between young and old truly serve the needs of all.

There must be a reconciliation between the desires of the people and the instruments of government needed to fulfill many of those desires. The dissatisfied and the angry must be convinced that our form of government can and will effectively fulfill their just demands on it.

There must be a reconciliation between those in authority and those they are supposed to serve and lead. The sharp decline in respect for authority in the United States must be arrested and reversed. This requires, most of all, that such authority merit respect. The leadership of this Nation, and especially the national congressional and Executive leadership, must seek to regain the confidence of those who now regard it with apathetic disinterest if not with outright distrust.

There must be a reconciliation between the civil and military sectors of our society. We cannot escape the need for a strong and loyal military. Nor can we ignore the need for civilian confidence in and control of that military. Yet all around us we hear expressions of concern about and distrust of our Armed Forces. Even within its ranks there is growing dissension. Racial tensions are mounting. Widespread disgust exists over the abuses of the privileges of rank. These problems must be dealt with and solved. An all-volunteer army may be one means of doing so. This initiative merits the support of the American people. Continued congressional scrutiny of defense spending and insistence that such spending be limited to clearly essential items are other means to restore confidence in our military. Most importantly, the military must show itself conscious of its role as a servant of the American people. We must seek to eliminate the abuses and the waste that make the military so rightly vulnerable to criticism.

We must seek a reconciliation between the various branches of the National Government and the principles of government that have served us so well in the past. I speak here of the need to again establish the proper separation of powers between the three branches of government and the need to insist upon the application of the system of checks and balances that has been the unique strength of our governmental system since its inception. The many expressions of intent to see that these principles are adhered to must become realities in fact.

Above all, as we seek reconciliation, we must recommit ourselves to the ideal of social justice so deeply cherished by the late President Johnson. His words eloquently express this ideal:

> This great, rich restless country can offer opportunity and education and hope to all: black and white, North and South, sharecropper and city dweller. These are the enemies: poverty, ignorance, disease. They are enemies and not our fellow man, not our neighbor. And these enemies too, poverty, disease and ignorance, we shall overcome.

A society truly committed to working toward the ideals of equal opportunity for all and equal treatment under the law can overcome these true enemies of mankind.

As we seek internal reconciliation and recommit ourselves to the ideal of social justice, we must do so with the sober realization that the domestic tasks that command our attention are not ones susceptible to easy, swift or inexpensive solution. They are difficult and demanding and will require of all Americans their best efforts if they are to be successfully met. I believe, given proper leadership, the American people are equal to these tasks. It is our responsibility to provide such leadership.

In the field of foreign affairs the tasks facing the United States are no less arduous. Nor can they be ignored with any less impunity.

Too often in the past we have mistakenly believed or argued that increased attention to domestic problems necessitates less attention to foreign concerns. This is not nor can it be the case. The issue is not one of more attention to one area over the other. Rather, it is one of adequate attention to both, predicated upon the interdependent nature of the two spheres of activity.

The guiding light for America's involvement in world affairs must be the sincere desire to achieve a "generation of peace" for all mankind. The cease-fire in Vietnam is a positive step toward this goal. Unfortunately, the tragedies of war continue in Southeast Asia as well as elsewhere in the world. Intermittent killing and strife marks the Middle East. Northern Ireland is wracked by sectarian conflict. In Africa the nationalists' struggle for independence from Portuguese colonial rule continues. Moreover, the unconscionable racist policies of the white supremacists in Rhodesia and South Africa fan the flames of discontent and threaten to bring open warfare to that area. Indeed, war in its many tragic forms, plagues our planet. There can be little question that the cause of world peace needs the support of America as much as it ever has.

The present administration has made significant attempts to bring a "generation of peace" closer to reality. It has sought to lessen the threat of nuclear confrontation between the United States and the Soviet Union through the signing of SALT I accords. A permanent limitation has been achieved on existing ABM capabilities and an interim accord placing limits on strategic offensive missile systems has been signed. We must now seek a permanent limitation on strategic offensive systems. Moreover, restrictions must be sought on the qualitative strategic arms race between the superpowers. I speak here on the need to limit the deployment of MIRV and to forestall the development of sophisticated antisubmarine warfare capabilities. Failure to do so will threaten to destabilize the existing strategic balance between the superpowers.

In seeking additional arms limitation agreements, we must assure the Soviet Union of the sincerity of our intent and demand of the Soviets the same assurance. For this reason, we must forbear from provocative activities, unnecessary for our security, that tend to create suspicions on the other side.

Our efforts to stabilize the nuclear strategic environment may prove futile unless some way is found eventually to include the People's Republic of China and other nuclear powers in arms control arrangements. The problem, however, goes far beyond the policies of the existing nuclear powers. The danger of nuclear proliferation remains and is likely to become more visible in the years ahead. The number of countries that are potential nuclear powers in the military sense is increasing. We would be extremely shortsighted should we fail to address ourselves to this problem in our efforts to limit the perils of the nuclear age.

The United States has also improved the climate for peace in the world by normalizing relations with both the Soviet Union and the People's Republic of China in other spheres of activity. Trade relations with the Soviet Union are expanding. Exports to the Soviet Union increased from $162 million for 1971 to $547 million for 1972. Imports from the Soviet Union were $95 million for 1972 as compared to $57 million the previous year. As this trading relationship grows, we can reasonably hope that the Soviet Union will perceive itself as having a "vested interest" in the continuation of such trade, an interest that will further decrease the likelihood of open conflict between the two superpowers.

Expanded relations with the People's Republic of China is another administration initiative designed to promote peace in the world. In the period ahead, we should move toward full diplomatic recognition of the Chinese People's Republic and increased trade and cultural exchanges with that country. True stability in the international system requires the full and open participation of the People's Republic in the affairs of the world.

As we seek to reduce the possibilities of conflict with our adversaries, we can ill afford to ignore our responsibilities to and our relations with our allies. The security we seek in the world cannot be attained without them. In turn, their security depends upon a close relationship with us.

In Europe, together with our allies, we have embarked on a course of action that can result in enhanced security for all at lower costs and risks. We are engaged in preliminary negotiations on the Conference on Security and Cooperation in Europe, and are beginning similar discussions on the subject of mutual force reductions. Prudence requires that we recognize that pitfalls exists in such negotiations. The Soviet Union could use the Conference for propaganda atmospherics, hoping to influence the West to ignore the reality of the growing military strength of the Warsaw Pact. The promotion of an atmosphere of détente unaccompanied by the substance of balanced force reductions could certainly accrue to the advantage of the Soviet Union.

On the other hand, it may be that the Soviet Union is serious in its desires to seek some form of meaningful relaxation of tensions in Europe. Concern over China and the desire for greater access to Western technology may be two of several reasons for a possible Soviet willingness to reach accommodations with the West.

Regardless of Soviet motivations, we and our West European allies should use these two forums to promote our own objectives. In the force reduction talks, enhanced military security should be sought at less expense and risk. Greater freedom of exchange of ideas and peoples between East and West in Europe should be the primary objective of our efforts at the Conference on Security and Cooperation. Generally, the United States must insist that the Soviet rhetoric of détente be accompanied by an actual Soviet commitment to truly balanced reductions of East-West military forces in Europe.

While the security interests of the United States and its European allies are likely to continue to coincide, this is not the case in the trade and monetary fields. The period ahead will be replete with continuing and mounting tensions with our European allies in these areas. The expanded European Common Market will exert a growing influence in world markets and in the international monetary system. Such expansion will inevitably infringe upon many American interests. The greatest danger is that these tensions may become so intense as to overshadow the priority emphasis that should be given to mutual security needs. It is for this reason that we must seek to find acceptable compromises with our European allies that can mitigate the effects of tensions in these areas. Congress must assume greater responsibility in working with the Executive to find these compromises.

In the trade and monetary areas we face similar problems in our relations with the Japanese. We are all aware of the imbalances in our trade accounts with Japan. These imbalances have not improved noticeably since the President's initiatives of August 1971. This is a source of concern to all. Again, the Congress, with the Executive, shares the responsibility of evolving equitable solutions.

Many of us are also aware of the unsettling effect our rapproachement with the People's Republic has had on the Japanese. The extent to which Japanese confidence in our security guarantee has been eroded has not as yet been fathomed. The period ahead will be one in which the Japanese continue to make fundamental adjustments in their relations with others. Already Tokyo is making extensive efforts to improve relations with both Moscow and Peking. Japan is also encouraging the extension of its commercial interests into South America and the African Continent. During this period of change, we must seek to maintain our close security relationship with Japan, to mitigate trade tensions where possible, and to accept the emergence of Japan as a leading power, both diplomatically and economically, in the world.

It is in the Mideast that I see the greatest threat to world peace. There the greatest potential for confrontation between ourselves and the Soviet Union exists. There, also, the tragedy of unresolved conflicts is most evident. Admittedly, the options open to us in seeking a peaceful way out of the present impasse are limited. The involved parties cannot be forced to accept a settlement that runs counter to their wishes. Nor, apparently, can we hope to gain the cooperation of other external powers in stemming the flow of arms to the area. What we can do is seek to extend the period of respite from open warfare, hopefully providing a time wherein some form of compromise can be reached by the involved parties. In this record, we

can pray that the upcoming trip of King Hussein to this country will result in some breakthrough. An initiative at reaching some accommodation between Jordan and Israel on the status of Jerusalem and the Westbank would be a start toward an eventual solution.

Finally, I must stress the need to recommit ourselves to the original ideals of foreign aid. In the past few years, the concept of foreign aid has fallen into disrepute. Having found that largesse does not necessarily buy friends, many Americans have been reluctant to support extensive assistance programs to help the developing world. When we have engaged in such aid in the recent past, it has been, in the words of one observer, "to finance a 'second arms race' between recipients of American and Soviet assistance." It is the tragedy of our aid program that its original emphasis on aiding the weak and economically depressed has been replaced by an overriding concern with military assistance. We must return to the original objectives of foreign aid. We must seek to eliminate root causes of conflict and strife in the developing world, rather than merely providing the military wherewithal to perpetuate wars arising from these causes.

Our responsibility to participate in the task of reconstruction in Vietnam provides us with a unique opportunity to begin to reformulate our aid program along these lines. In doing so, efforts should proceed, where possible, on a multilateral basis. Other nations have already expressed a willingness to participate in the work of reconstruction. In making the efforts to rebuild Vietnam multilateral, we can help promote the sense of commonality of purpose that will be needed to effectively confront the multitude of problems of concern to all nations.

We should also examine the possibility of involving the United Nations in the reconstruction efforts in Vietnam. Secretary-General Kurt Waldheim has expressed his positive desires in this regard. Conditioned on the agreement of the Vietnam parties to such participation, our support of a United Nations effort in Vietnam would be a tangible expression of our continued support of the world organization.

Mr. President, I have briefly covered a myriad of subjects in these past few minutes. I have done so in the hope that my remarks will engender among Senators a resolve to place before the American people the great challenges that face this country. The urgency of our tasks does not allow us to withdraw from active engagement in the world's work. The promises of America to itself and to the world must be fulfilled.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Hawaii (Mr. FONG) is recognized for a period not to exceed 15 minutes.

(The remarks Senator FONG made at this point on the introduction of S. 714, increasing the duty on imports of foreign canned pineapple, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

POSTWAR RECONSTRUCTION OF INDOCHINA

Mr. PEARSON. Mr. President, at his news conference yesterday, President Nixon was asked about postwar reconstruction aid to North Vietnam and the rest of Indochina. The President said:

I am keenly aware of the fact that even though I might believe that a program of reconstruction for North Vietnam, as well as South Vietnam, is an investment in peace, the Congress has to believe it. The Congress has to support it. And this is going to be one of the more difficult assignments I have had as President, but I think we can make it if the Congress sees what the stakes are.

President Nixon is quite correct. Only the Congress can authorize and appropriate funds for reconstruction assistance to Indochina, including North Vietnam. The issue will be a complex and difficult one for Members of Congress to consider.

With the cease-fire in Vietnam and the withdrawal of our forces, the United States has ended an era of confrontation. We pray that we have begun an era of peace. But the confrontation between the President and the Congress over their respective roles in the formulation and conduct of American foreign policy continues. And it continues to the detriment of our Nation. We all understand that prolonged confrontation between the Congress and the President has adverse effects on many aspects of our foreign relations. It is in the interest of both the President and the Congress to begin to end this era of confrontation.

If we look back through American diplomatic history, we find that there have been a number of instances in which the President and the Congress cooperated closely throughout the process of the formulation, negotiation, and ratification of important international agreements. One of the ways in which this cooperation was achieved was through the appointment of Members of the House and Senate to the delegations negotiating the agreements. In this way, the negotiators would be well informed and sensitive to the concerns of the Congress and the Congress could, at the appropriate time, be fully informed about the complexities and issues involved in the negotiations.

As we begin difficult discussions with the North Vietnamese and other states of Indochina concerning the provision of reconstruction assistance, I believe that we should once again seek the closest consultation and cooperation between the President and the Congress. To achieve this objective, I have written to President Nixon urging him to appoint a small bipartisan group of Members of the House and Senate to the delegation which will accompany Dr. Kissinger to Hanoi on February 10.

Mr. President, I ask unanimous consent that the text of my letter to President Nixon be printed in the RECORD.

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

WASHINGTON, D.C., *February 1, 1973.*

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

DEAR MR. PRESIDENT: Dr. Kissinger's forthcoming discussions in Hanoi concerning the United States role in postwar reconstruction of Indochina will open a new phase of American involvement in that area. With these discussions, our government will begin to define the terms, conditions and amount of reconstruction assistance as provided in Chapter VIII, Article 21, of the Agreement on Ending the War and Restoring the Peace in Vietnam. While the Congress will not be asked for advice or consent about any other part of the Paris agreement, it may well be asked to authorize and appropriate substantial funds to pay for American contributions to reconstruction efforts.

Because the provision of postwar aid is of critical importance to our efforts to secure a lasting peace in Indochina, closest cooperation between the executive and legislative branches of our government is an undeniable necessity. I believe that this cooperation should begin at the earliest possible time and include in its formative stages those members who will have the most direct responsibility for consideration of any legislative proposals.

As you know, American Presidents have, from time to time during our history, included members of Congress on the delegations to important international discussions. The members served a dual role. They advise the delegation about Congressional attitudes toward various issues which arose during the discussions and they explained the terms of the agreements to their Congressional colleagues at the appropriate time.

Because the discussions with the North Vietnamese concerning reconstruction assistance are critical to our postwar Indochina policy and because the Congress will be directly responsible for authorizing and appropriating funds to implement any agreement concerning reconstruction aid, I urge you to include a small bipartisan group of members of the House and Senate on the delegation going to Hanoi on February 10. I would suggest that the Majority and Minority Leaders of each House or the Chairmen and ranking members of the Foreign Affairs Committees of both Houses would be appropriate delegates.

I believe, Mr. President, that the inclusion of members of Congress on the American delegation to Hanoi would constitute a prudent and timely beginning to a continuing consultation with Congress on reconstruction assistance to all of Indochina.

Very truly yours,

JAMES B. PEARSON,
U.S. Senator.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. SCOTT of Virginia). Under the previous order, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) is now recognized for not to exceed 13 minutes.

GOVERNMENT SPENDING AND THE PRESIDENT'S BUDGET MESSAGE

Mr. HARRY F. BYRD, JR. Mr. President, judging from newspaper headlines

and TV and radio reports, one would think that the budget submitted by President Nixon this past Monday provides for a reduction in Federal spending.

The facts are, Mr. President, that the budget submitted by President Nixon this past Monday calls for an increase in Government spending of $19 billion.

The public, I feel, does not understand this, as all of the attention has been focused on the President's reduction of a few programs. Overlooked entirely is the fact that, taken as a whole, the new budget provides for an increase of $19 billion in Federal spending.

The able Senator from Kansas (Mr. PEARSON) just brought out, a moment ago, that the President in his press conference yesterday said that he will subsequently recommend a reconstruction program for all of Indochina—for Laos, Cambodia, South Vietnam, and North Vietnam. None of the cost involved there is included in the budget which was submitted this past Monday.

It is important that the people and Congress understand just what the situation is in regard to the Government's fiscal affairs.

For the current fiscal year, the one which will end on June 30, according to the figures submitted by the Bureau of the Budget, the Federal funds deficit will be the largest of any deficit in the past 28 years.

If we take the 5 fiscal years which will end June 30, 1974, which includes the new budget just submitted, the accumulated Federal funds deficit for that period of time—that 5-year period—will exceed $130 billion.

In no previous comparable time in our history has the U.S. Government ever run such deficits, except during World War II when we had 12 million men under arms and were fighting one war in Europe and another in the Pacific.

The cost of government is not being reduced. The cost of government is being increased.

I have mentioned that the deficit for the current fiscal year will be greater than at any other period in the last 28 years. It is true that the projected deficit for the upcoming fiscal year will be less, but only slightly less.

The Federal funds deficit, according to the figures submitted by the Office of Management and Budget, for the new fiscal year beginning July 1 will be $28 billion. That compares with a Federal funds deficit of the current fiscal year of $34 billion.

Let us take the interest on the debt. In the past 8 years, if we compare fiscal year 1967 with fiscal year 1974, one will find that the interest charges on the debt have doubled, from $13 billion in 1967 to the figure of $26 billion in the new budget—just to pay the interest on the debt.

Those figures are so gigantic that I do not comprehend them too well—$26 billion for interest; but I can comprehend this figure a little better: Of every dollar of personal and corporate income tax paid into the Federal Treasury by the wage earners of this country, 17 cents goes for one purpose, and that is to pay the interest charges on the national debt.

The national debt is now $465 billion. The budget report submitted by the President this past Monday estimates that at the end of the next fiscal year, the national debt will go to $505 billion.

Out of the total national debt, 25 percent will have been incurred in a 5-year period—fiscal 1970, fiscal 1971, fiscal 1972, fiscal 1973, and fiscal 1974. In that 5-year period, one-fourth of the total national debt of our Government will have been incurred. That means that the other 75 percent was incurred during a period of well over a hundred years, during which time we fought the War Between the States, the Spanish-American War, World War I, World War II, the Korean war, and part of the Vietnam war.

I think the Government's financial situation is in a far more serious condition than is realized by Congress or realized by the administration. If it is to be brought under control, I submit that Congress and the President must work together.

I have prepared tables which I think dramatize the facts in regard to our fiscal situation. One table gives the receipts and expenditures for fiscal years 1968 through 1974, and the other table gives the deficits in Federal funds and the interest on the national debt for the past 20 years—1955–1974, inclusive. I ask unanimous consent to have these tables printed at the conclusion of my remarks.

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

(See exhibit 1.)

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

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

Mr. ROBERT C. BYRD. Mr. President, I have listened to the statement by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) with great interest. It strikes me that it is an anomaly that the executive branch requested and the Congress enacted a general revenue sharing bill last year providing for about $30 billion in revenues to the States over the next 5 years—am I correct?

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. ROBERT C. BYRD. Out of revenues which the Federal Government apparently does not have. The distinguished Senator from Virginia has just stated—if I understood him correctly—that by the end of the next fiscal year, meaning the end of fiscal year 1974, the national debt is estimated to become about $505 billion.

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. ROBERT C. BYRD. That is $505 for every minute since Jesus Christ was born.

Would the Senator explain to me how the Federal Government, which has a debt of this kind hanging over it, can share general revenues to the tune of $30 billion over the next 5 years with the States? I recognize that the State governments are in difficulty; but from the picture that the able Senator has just completed painting, it strikes me that the Federal Government is in much worse shape.

Mr. HARRY F. BYRD, JR. I say to my distinguished friend and colleague, the Senator from West Virginia, that the Federal Government is in much worse shape than is any State in the Union.

When 13 Governors appeared before the Committee on Finance last year to argue in favor of revenue sharing, I put this challenge to the Governors. I said—

Can you name any State in the Union, any one of the 50 States, that is in as bad shape financially as is the Federal Government?

None of them could name a State.

The State of California, we read in the paper this past week, is ending its fiscal year with a surplus of $850 million. My own State of Virginia will have a surplus this fiscal year.

As the able and thoughtful Senator from West Virginia pointed out a moment ago, how can you share revenue when you are running these smashing deficits?

I say there is no revenue to share. The only thing we can share with the States is the deficits.

The Federal Government gets its money from the same source as the States and localities get theirs. They can only get their funds out of the pockets of the hard-working wage earners. They cannot get the money anywhere else. So the tremendous spending that the Federal Government will do in the new program of revenue sharing enacted last year, over a 5-year period, will cost the Federal Government—the taxpayers $30 billion at a time when the accumulated Federal funds deficit of our Government will be running $130 billion in the red.

I think the able Senator from West Virginia developed an important point when he mentioned the matter of revenue sharing. It does not seem very logical to me to be embarking on new programs of that type at a time when the Federal Government is deeply in the red.

If we keep this up—and apparently we are going to keep it up for the new budget calls for $19 billion more in spending over what we have been spending, and that does not include reconstruction of Indochina, and no one knows what that is going to cost—the American people will continue to be faced with ever-increasing taxes and ever-increasing inflation, or both.

The figures I have mentioned in these remarks deal with the administrative, or Federal funds, budget. On a unified budget basis; namely, by utilizing the surplus from the social security trust fund—the deficits are not as great. But it is improper, in my judgment, to throw in the trust funds because they cannot be utilized for the general operation of the Government.

EXHIBIT 1

JAN. 29, 1973

[In billions of dollars]

	Fiscal year—						
	1968	1969	1970	1971	1972	[1] 1973	[1] 1974
RECEIPTS							
Individual income taxes	69.0	87.0	90.0	86.0	95.0	99.0	112.0
Corporate income taxes	29.0	37.0	33.0	27.0	32.0	34.0	37.0
Total	98.0	124.0	123.0	113.0	126.0	133.0	149.0
Excise taxes (excluding highway)	10.0	11.0	10.3	10.5	9.1	9.4	9.6
Estate and gift	3.0	3.5	3.6	3.7	5.2	4.6	5.0
Customs	2.0	2.3	2.4	2.6	3.2	3.0	3.3
Miscellaneous	2.5	3.0	3.4	3.9	3.5	4.0	4.1
Total, Federal fund receipts	116.0	143.0	143.0	134.0	149.0	154.0	171.0
Trust funds (social security, retirement highway)	38.0	44.0	51.0	54.0	60.0	71.0	85.0
Total	154.0	188.0	194.0	188.0	209.0	225.0	256.0
EXPENDITURES							
Federal funds	143.0	149.0	156.0	164.0	178.0	188.0	199.0
Trust funds	36.0	36.0	40.0	48.0	54.0	62.0	70.0
Total	179.0	185.0	196.0	212.0	232.0	250.0	269.0
Unified budget surplus (+) or deficit (−)	−25.0	+3.1	−2.0	−24.0	−23.0	−25.0	−13.0
Federal funds deficit	−27.0	−6.0	−13.0	−30.0	−29.0	−34.0	−28.0

[1] Estimated figures by Office of Management and Budget.

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1955–74 INCLUSIVE FEB. 1, 1973

[In billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1955	58.1	62.3	−4.2	6.4
1956	65.4	63.8	+1.6	6.8
1957	68.8	67.1	+1.7	7.3
1958	66.6	69 7	−3.1	7.8
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	10.7
1965	90.9	94.8	−3.9	10.3
1966	101.4	106.5	−5.1	12.0
1967	111.8	126.8	−15.0	13.4
1968	114.7	143.1	−28.4	14.6
1969	143.3	148.8	−5.5	16.6
1960	143.2	156.3	−13.1	19.3
1971	133.7	163.7	−30.0	21.0
1972	148.8	178.0	−29.2	21.8
1973 [1]	154.3	188.4	−34.1	24.2
1974 [1]	171.3	199.1	−27.8	26.1
20-year total	2,039.5	2,272.1	232.6	264.7

[1] Estimated figures.

Source: Office of Management and Budget and Treasury Department.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION TO AMEND THE FEDERAL CROP INSURANCE ACT

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Crop Insurance Act, as amended (with an accompanying paper); to the Committee on Agriculture and Forestry.

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Deputy Director, Office of Management and Budget, reporting, pursuant to law, on the overobligation in the appropriation to the Department of Agriculture for "Forest Protection and Utilization," Forest Service, for the fiscal year 1973; to the Committee on Appropriations.

PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR THE ARMED FORCES, FISCAL YEAR 1974

A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

REPORT OF DISTRICT OF COLUMBIA ARMORY BOARD

A letter from the Acting Chairman, District of Columbia Armory Board transmitting, pursuant to law, a report of that Board, for the fiscal year 1972 (with an accompanying report); to the Committee on the District of Columbia.

BALANCE SHEET OF POTOMAC ELECTRIC POWER CO.

A letter from the vice president and comptroller, Potomac Electric Power Co., Washington, D.C., transmitting, pursuant to law, a balance sheet of that company, as of December 31, 1972 (with an accompanying paper); to the Committee on the District of Columbia.

REPORT ON INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, reporting, pursuant to law, on international agreements other than treaties, entered into by the United States (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Study of Federal Programs for Manpower Services for the Disadvantaged in the District of Columbia," dated January 30, 1973 (with an accompanying report); to the Committee on Government Operations.

REPORT ON RECLASSIFICATION OF LAND OF THE HEART MOUNTAIN IRRIGATION DISTRICT

A letter from the Deputy Assistant Secretary of the Interior, reporting, pursuant to law, on the reclassification of land of the Heart Mountain Irrigation District; to the Committee on Interior and Insular Affairs.

REPORT OF JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

A letter from the Federal Co-chairman, and the State Co-chairman, Federal-State Land Use Planning Commission for Alaska, Anchorage, Alaska, transmitting, pursuant to law, a report of that Commission, for the year 1972 (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED STUDY OF A CERTAIN SEGMENT OF THE OKLAWAHA RIVER

A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to provide for study of a certain segment of the Oklawaha River for potential addition to the National Wild and Scenic Rivers System (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT OF U.S. ATOMIC ENERGY COMMISSION

A letter from the Chairman and Members, U.S. Atomic Energy Commission, transmitting, pursuant to law, a report of that Commission, for the year 1972 (with an accompanying report); to the Joint Committee on Atomic Energy.

PROPOSED LEGISLATION TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1974

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting a draft of proposed legislation to authorize appropriations to the Atomic Energy Commission, and for other purposes (with an accompanying paper); to the Joint Committee on Atomic Energy.

REPORT OF THE FEDERAL JUDICIAL CENTER

A letter from the Director, the Federal Judicial Center, Washington, D.C., transmitting, pursuant to law, a report of that Center, for the year 1972 (with an accompanying report); to the Committee on the Judiciary.

REGISTER OF RETIREMENT BENEFIT PLANS, DEPARTMENT OF LABOR

A letter from the Assistant Secretary of Labor, transmitting, pursuant to law, a register of retirement benefit plans, for that Department, as of January 1, 1972 (with an accompanying document); to the Committee on Labor and Public Welfare.

REPORT ON POSITIONS IN GRADES GS–16, GS–17, AND GS–18

A letter from the Chairman, U.S. Civil Service Commission, transmitting, pursuant to law, a report on positions in grades GS–16, GS–17, and GS–18, for the calendar year 1972 (with an accompanying report); to the Committee on Post Office and Civil Service.

PROSPECTUS RELATING TO SPACE OCCUPIED BY THE SOCIAL SECURITY ADMINISTRATION

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus relating to space presently occupied by the Social Security Administration and by the Internal Revenue Services' Regional Office, Chicago, Ill. (with accompanying papers); to the Committee on Public Works.

PROPOSED LEGISLATION TO AMEND THE PUBLIC BUILDINGS ACT OF 1959

A letter from the Acting Administrator, General Services Administration, transmitting a draft of proposed legislation to amend the Public Buildings Act of 1959, as amended, and for other purposes (with an accompanying paper); to the Committee on Public Works.

REPORT OF NEW ENGLAND REGIONAL COMMISSION

A letter from the Federal Cochairman, New England Regional Commission, Washington, D.C., transmitting, pursuant to law, a report of that Commission, for the fiscal year 1972 (with an accompanying report); to the Committee on Public Works.

REPORT ON DISPOSAL OF FOREIGN EXCESS PROPERTY BY THE VETERANS' ADMINISTRATION

A letter from the Deputy Administrator, Veterans' Administration, Washington, D.C., transmitting, pursuant to law, a report on disposal of foreign excess property by that Administration, for the fiscal year 1972 (with an accompanying report); to the Committee on Veterans' Affairs.

PROPOSED OIL POLLUTION COMPENSATION ACT OF 1972

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to implement the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (with accompanying papers).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the communication from Mr. Marshall Wright, Acting Assistant Secretary for Congressional Relations, Department of State, be referred jointly to the Committee on Foreign Relations and the Committee on Commerce.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 267. A bill to abolish the Joint Committee on Navajo-Hopi Indian Administration (Rept. No. 93–11).

By Mr. CANNON, from the Committee on Commerce, with an amendment:

S. 38. A bill to amend the Airport and Airway Development Act of 1970, as amended, to increase the U.S. share of allowable project costs under such act, to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes (Rept. No. 93–12).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

John A. Scali, of the District of Columbia, to be the Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representatives of the United States of America in the Security Council of the United Nations;

Kenneth Rush, of New York, to be Deputy Secretary of State;

William J. Porter, of Massachusetts, a Foreign Service officer of the class of career minister, to be Under Secretary of State for Political Affairs;

William J. Casey, of New York, to be Under Secretary of State for Economic Affairs;

Donald Rumsfeld, of Illinois, to be the U.S. Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary;

John N. Irwin II, of New York, to be Ambassador Extraordinary and Plenipotentiary to France;

John A. Volpe, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary to Italy; and

U. Alexis Johnson, of California, a Foreign Service Officer of the Class of Career Ambassador, to be Ambassador at Large.

The above nominations were reported by Mr. FULBRIGHT, with a recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. SCOTT of Pennsylvania:

S. 685. A bill for the relief of Mamerto C. Comia;

S. 686. A bill for the relief of Jean-Patrice Courtauld;

S. 687. A bill for the relief of Soccorso M. Tecce and his wife, Bruna Tecce; and

S. 688. A bill for the relief of Leonardo Boccella. Refered to the Committee on the Judiciary.

By Mr. MANSFIELD:

S. 689. A bill to amend section 35 of the Mineral Leasing Act of 1920 with respect to the disposition of the proceeds of sales, bonuses, royalties, and rentals under such act. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMINICK:

S. 690. A bill for the relief of Lugarda Losoya Damian-Ruiz. Referred to the Committee on the Judiciary.

By Mr. BROOKE:

S. 691. A bill for the relief of Santa Bonanno Merlino;

S. 692. A bill for the relief of Guilhermina Garcia;

S. 693. A bill for the relief of Elizabeth Cheng;

S. 694. A bill for the relief of Manuel Soares De Medeiros;

S. 695. A bill for the relief of Alphonso Cunningham;

S. 696. A bill for the relief of Christine Hadow;

S. 697. A bill for the relief of Agnese Modano; and

S. 698. A bill for the relief of Milenka Vuksanovich. Refered to the Committee on the Judiciary.

By Mr. FONG:

S. 699. A bill for the relief of Rodolfo Evangelista Corpuz;

S. 700. A bill for the relief of Romeo Farley Tanjuaquio; and

S. 701. A bill for the relief of Benigno Domlao Jacinto. Referred to the Committee on the Judiciary.

By Mr. DOMINICK:

S. 702. A bill to designate the Flat Tops Wilderness, Routt and White River National Forests, in the State of Colorado. Referred to the Committee on Interior and Insular Affairs.

By Mr. BELLMON:

S. 703. A bill to control Federal spending by requiring an annual ceiling on expenditures and new obligational authority. Referred to the Committee on Government Operations.

By Mr. METCALF:

S. 704. A bill to restore the independence of certain regulatory agencies of the Federal Government. Referred to the Committee on Government Operations.

By Mr. HUMPHREY:

S. 705. A bill to provide employment opportunities in public service for unemployed persons, to assist States and local communities in providing urgently needed public services, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MONDALE (for himself, Mr. CRANSTON, Mr. KENNEDY, Mr. WILLIAMS, and Mr. JACKSON):

S. 706. A bill to provide for an additional year of authorization for programs under the Economic Opportunity Act of 1964. Referred to the Committee on Labor and Public Welfare.

By Mr. RIBICOFF (for himself, Mr. JAVITS, Mr. PERCY, Mr. MAGNUSON, Mr. MOSS, and Mr. COOK):

S. 707. A bill to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes. Referred, by unanimous consent, jointly and simultaneously, to the Committees on Commerce and Government Operations, with the proviso that, when one committee reports the bill, the other will have 45 days in which to report or the other committee will be deemed discharged from the further consideration of the bill.

By Mr. STEVENSON:

S. 708. A bill to amend the Gun Control Act of 1968. Referred, by unanimous consent, to the Committee on the Judiciary.

By Mr. STEVENSON (for himself, Mr. HUMPHREY, and Mr. MATHIAS):

S. 709. A bill to amend the Legislative Reorganization Act of 1970 to provide for the availability of certain proposed agency rules, regulations, and orders. Referred to the Committee on Government Operations.

By Mr. FANNIN:

S. 710. A bill to prohibit fines for crossing unlawful picket lines;

S. 711. A bill to amend the National Labor Relations Act with respect to election of representatives;

S. 712. A bill to amend the national emergency provisions of the Labor-Management Relations Act, 1947, so as to provide for dissolution of injunctions thereunder only upon settlement of disputes; and

S. 713. A bill to provide for strike ballots in certain cases. Referred to the Committee on Labor and Public Welfare.

By Mr. FONG:

S. 714. A bill to increase the rates of duty on prepared and preserved pineapple and concentrated pineapple juice. Referred to the Committee on Finance.

By Mr. SCHWEIKER:

S. 715. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the amounts of lead and cadmium which may be released from glazed ceramic or enamel dinnerware. Referred to the Committee on Labor and Public Welfare.

By Mr. HRUSKA (for himself, Mr. MCCLELLAN, Mr. BURDICK, Mr. FONG, Mr. GURNEY, Mr. HART, Mr. MATHIAS, Mr. SCOTT of Pennsylvania, and Mr. TUNNEY):

S. 716. A bill to amend chapter 235 of title 18, United States Code, to provide for the appellate review of sentences imposed in criminal cases arising in the district courts of the United States. Referred to the Committee on the Judiciary.

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

S. 717. A bill to repeal the bread tax on 1973 wheat crop. Referred to the Committee on Agriculture and Forestry.

By Mr. SCOTT of Virginia:

S. 718. A bill to facilitate the administration of the laws in the District of Columbia relating to the conduct of public demonstrations;

S. 719. A bill to limit the authority of the government of the District of Columbia with respect to the levying and collecting of certain taxes; and

S. 720. A bill to abolish the National Capital Planning Commission and to transfer certain of its functions to the District of Columbia. Referred to the Committee on the District of Columbia.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 721. A bill to authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. SCOTT of Virginia:

S. 722. A bill to prohibit any State from levying income taxes on nonresidents of the State. Referred to the Committee on the Judiciary.

By Mr. BEALL (for himself, Mr. HATHAWAY, Mr. JAVITS, Mr. PASTORE, Mr. STEVENS, and Mr. YOUNG):

S. 723. A bill to establish a National Institute of Health Care Delivery, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. BENTSEN:

S. 724. A bill for the relief of Marcos Rojos Rodriguez. Referred to the Committee on the Judiciary.

S. 725. A bill authorizing the Secretary of the Army to construct three floodwater channels for flood prevention and other purposes in the Lower Rio Grande Basin, Willacy, Hildalgo, and Cameron Counties, Texas. Referred to the Committee on Public Works.

By Mr. BENTSEN (for himself, Mr. ABOUREZK, Mr. BEALL, Mr. BIBLE, Mr. BROCK, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. DOMENICI, Mr. HASKELL, Mr. INOUYE, Mr. HUMPHREY, Mr. MCGOVERN, Mr. MOSS, Mr. NUNN, Mr. RANDOLPH, and Mr. YOUNG):

S. 726. A bill concerning the allocation of water pollution funds among the States in fiscal 1973 and fiscal 1974. Referred to the Committee on Public Works.

By Mr. STEVENS:

S. 727. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expense incurred by a taxpayer in making repairs and improvements to his residence. Referred to the Committee on Finance.

S. 728. A bill to amend the Internal Revenue Code of 1954 to permit a deduction from gross income based upon the cost of living in certain States; and

S. 729. A bill to amend the Internal Revenue Code of 1954 to exempt from a tax a portion of the income of individuals not employed by the Federal Government who live in a State in which Federal employees receive an allowance based on living costs and conditions of environment. Referred to the Commitee on Finance.

By Mr. BARTLETT:

S. 730. A bill for the relief of Eleanor R. Isip. Referred to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 731. A bill for the relief of Michael Amamchuku Ojukwu. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 732. A bill for the relief of Corazon F. Mesina. Referred to the Committee on the Judiciary.

By Mr. GRIFFIN:

S. 733. A bill for the relief of James Francis Keough. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself, Mr. GURNEY, and Mr. CHILES):

S. 734. A bill to authorize the Secretary of the Interior to establish the Man In Space National Historic Site at Cape Kennedy, Fla. Referred to the Committee on Interior and Insular Affairs.

By Mr. FONG:

S. 735. A bill to strengthen and improve the Older Americans Act of 1965, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY (for himself, Mr. CANNON, Mr. CRANSTON, Mr. GRAVEL, Mr. HART, Mr. HUMPHREY, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. MUSKIE, Mr. MCGOVERN, Mr. NELSON, Mr. PELL, Mr. PASTORE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENSON, and Mr. WILLIAMS):

S. 736. A bill to provide for research for solutions to the problem of alienation among American workers and to provide for pilot projects and provide technical assistance to find ways to deal with that problem, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. SCHWEIKER:

S. 737. A bill for the relief of Andrea Montano. Referred to the Committee on the Judiciary.

By Mr. MUSKIE (for himself, Mr. BIDEN, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. JAVITS, Mr. KENNEDY, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. TUNNEY, and Mr. WEICKER):

S. 738. A bill to establish and support State inspection programs for auto emission control systems. Referred to the Committee on Public Works.

By Mr. MUSKIE (for himself, Mr. BIDEN, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. HART, Mr. HATHAWAY, Mr. JAVITS, Mr. KENNEDY, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. TUNNEY, and Mr. WEICKER):

S. 739. A bill to allow use of highway funds for any transportation improvements necessary to avoid air pollution dangerous to public health, and to prohibit highway projects which may create air pollution dangerous to public health. Referred to the Committee on Public Works.

By Mr. WILLIAMS (for himself, Mr. KENNEDY, Mr. JAVITS, Mr. DOMINICK, Mr. BENTSEN, Mr. HUGHES, Mr. MONDALE, Mr. PELL, Mr. RANDOLPH, Mr. CRANSTON, Mr. STEVENSON, and Mr. NELSON):

S. 740. A bill to extend the program for health services for domestic agricultural migrant workers. Referred to the Committee on Labor and Public Welfare.

By Mr. BIBLE:

S. 741. A bill to permit American citizens to hold gold. Referred to the Committee on Banking, Housing and Urban Affairs.

S. 742. A bill to amend title 18 of the United States Code to provide civil remedies to victims of racketeering activity and theft, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. FONG (for himself and Mr. FANNIN):

S.J. Res. 48. A joint resolution to establish a National Commission on Social Security. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MANSFIELD:

S. 689. A bill to amend section 35 of the Mineral Leasing Act of 1920 with respect to the disposition of the proceeds of sales, bonuses, royalties, and rentals under such act. Referred to the Committee on Interior and Insular Affairs.

Mr. MANSFIELD. Mr. President, the Department of the Interior is one department of the Government which does not operate in the red. Mineral development is big business. According to the statistics published in February 1972, of the Geological Survey, Conservation Division cumulative production from mining operations, all Federal and Indian lands amounted to $1,139,295,835, with a cumulative royalty value of $36,676,499.

Cost of reclamation and any compensation for degradation of the immediate environment because of the exploitation of development considered necessary for the national welfare is not figured into the balance sheet.

By all odds, the local populations which suffer environmental detriment should be compensated and made as whole as can be under the circumstances of necessary surface mining operations.

The Mineral Leasing Act of 1920 now provides that 37½ percent of all moneys received from sales, bonuses, royalties, and rentals of public lands under that act be paid to States or subdivisions thereof for the construction and maintenance of public roads or for the support of public school or other educational institutions, with 52½ percent to be paid into the general reclamation fund estab-

lished under the Reclamation Act of 1902. Moneys going into the general reclamation fund are not credited to reclamation programs in such States on the basis of mineral revenue from that State. The remaining 10 percent is credited to miscellaneous receipts.

The bill which I introduce today would credit 90 percent of such moneys to the States which are being exploited for reclamation and reconditioning lands damaged by surface mining operations and, thereafter, for the construction and maintenance of public roads or for the support of public schools as the legislatures of each State may direct.

Mr. President, I send the bill to the desk and ask that it be appropriately referred.

The PRESIDENT pro tempore. Without objection, the bill will be received and appropriately referred.

By Mr. DOMINICK:

S. 702. A bill to designate the Flat Tops Wilderness, Routt, and White River National Forests, in the State of Colorado. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMINICK. Mr. President, today I am introducing on behalf of myself and my distinguished colleague Senator FLOYD K. HASKELL, a bill to establish a Flat Tops Wilderness Area in the Routt and White River National Forests in Colorado. This bill would designate 212,716 acres as part of our national wilderness system.

This legislation would give permanent wilderness protection to one of the most magnificent de facto wilderness areas in Colorado. It would encompass the existing Flat Tops Primitive Area. In addition to the interesting geology of the White River Plateau, the area provides habitat for many species of wildlife. Among them are elk, mule deer, black bear, bighorn sheep, bobcat, coyote, badger, fox, beaver, marten, mink, weasel, snowshoe rabbits, blue grouse, ruffled grouse, white tailed ptarmigan, eagles, hawks, and migratory water fowl. There are more than 30 high mountain lakes in the area, and several excellent trout streams, including the South Fork of the White River, which is considered to be one of the best streams in the State for native cutthroat trout.

This bill is similar to S. 1441, which was introduced by Senator Allott and me on April 1, 1971. That bill was introduced in order to provide a departure point for hearings in an effort to bring together the views and plans of various groups and individuals. The bill that passed the Senate on October 10, 1972, provided for an area of 202,000 acres.

One of the areas that was excluded from S. 1441 was the South Fork of the White River. The question of whether the South Fork should be included has been the subject of continuing discussion.

Mr. President, the area designated G–1 on the Forest Service map referred to in the bill contains 10,716 acres and is intended to include the South Fork of the White River. This area contains 195 acres of patented land in two tracts, some of which is developed with buildings and other structures. The question of whether to include this area centers around the available water resources and its relationship to the development of the vast oil shale deposits.

The sentiment in favor of including this area is overwhelming. There is no argument that the South Fork of the White River is one of the most beautiful and unspoiled trout streams in the world. I am also mindful that the Wilderness Act specifically provides that the President may authorize prospecting for water resources, the establishment and maintenance of new reservoirs, power projects, water conservation works, transmission lines, and other facilities within a wilderness area if needed in the public interest.

Mr. President, with this backgrond, I feel that the area involving the South Fork of the White River should be fully considered at the time of hearings, and, accordingly, I have included it. I do not wish to limit the use of this water, if it is the only practical source for the future development of oil shale. However, the Wilderness Act provides the necessary protection.

Mr. President, the bill which I am introducing represents the 202,000 acres previously considered in S. 1441, which passed the Senate late in the 92d Congress, together with an additional 10,716 acres to include the South Fork of the White River—for a total of 212,716 acres.

I ask that this bill be appropriately referred and that it be printed at the conclusion of my remarks.

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

S. 702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with subsection 3(b) of the Wilderness Act of September 3, 1964 (78 Stat. 891), the area classified as the Flat Tops Primitive Area, with the proposed additions thereto and decisions therefrom, as generally depicted on a map entitled "Flat Tops Wilderness—Proposed," dated December 20, 1972, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the Flat Tops Wilderness within and as a part of the Routt and White River National Forests, comprising an area of approximately 212,716 acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Flat Tops Wilderness with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, 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 and map may be made.

SEC. 3. The Flat Tops Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Flat Tops Primitive Area is hereby abolished.

Mr. HASKELL. Mr. President, I am delighted to join the distinguished senior Senator from Colorado (Mr. DOMINICK) in introducing a bill to establish a Flat Tops Wilderness Area in Colorado.

The Senate has already recognized the need to protect one of the most magnificent areas in Colorado. S. 1441, an act to designate the Flat Tops Wilderness, was passed by this body last session. Unfortunately, however, no action was taken by the House of Representatives.

We are introducing this legislation again today and are looking forward to early approval. Assuming this bill is ultimately referred to the Public Lands Subcommittee of the Committee on Interior and Insular Affairs, I, as chairman of that subcommittee, plan to hold hearings on the proposal early in the session.

There is some disagreement on the proper boundaries of the wilderness. The legislation which passed the Senate last year did not include the wild South Fork of White River, Colo. This portion has been added to last year's 202,000 acres in our bill, bringing the total to 212,716 acres. Many Colorado people also want to include the Patterson Creek area of approximately 12,000 acres, and the Trout Creek-Mandell Creek area of approximately 8,000 acres. Possibly these should be included.

This will be explored when the bill is considered by the subcommittee.

I am pleased to be a part of the effort to protect the wild beauty of Colorado for future generations. As our urban areas continue to grow, more and more people are realizing the need to "escape" to the wilderness areas where they can cherish the beauty of the land. We have an obligation to make those areas available to the people of Colorado as well as to the people of the Nation.

By Mr. BELLMON:

S. 703. A bill to control Federal spending by requiring an annual ceiling on expenditures and new obligational authority. Referred to the Committee on Government Operations.

Mr. BELLMON. Mr. President, section 8 of article 1 of the Constitution provides that the Congress shall have power to raise and collect taxes and to pay the debts. The Constitution further provides that:

> No money shall be draw from the Treasury but in Consequence of Appropriations made by Law.

Plainly it was the intent of our Founding Fathers for the Congress to make the decisions relating both to the raising and spending of money. Over the years the Congress has gradually failed in meeting this responsibility, and now we are in the awkward position of losing much of this responsibility to the executive branch.

Today I am introducing legislation which would create a new and improved mechanism for the appropriation process and better enable the Congress to fully assert its constitutional role over the rapidly expanding Federal budget.

This bill is intended to assist the President and the Congress in a joint effort to hold Federal spending in line with the Nation's needs and our ability to pay.

One need only review the astonishing record in Federal income and spending in order to quickly determine that reforms in the appropriations process are drastically needed. Let me briefly illustrate the problem lest we lose sight of

what has happened in this area. Federal tax collections amounted to $5.1 billion in 1946 and $46.4 billion in 1950. In 1960, the Government collected $77.7 billion. Receipts totaled $193.7 billion in 1970 under the unified budget concept in which trust funds are also included along with revenues. This fiscal year, 1973, Federal receipts are estimated to total approximately $223 billion.

Let us now compare Federal spending for those same years. 1940, $9 billion; 1960, $75.5 billion; 1970, $196.5 billion; and in fiscal year 1973 spending will be approximately $250 billion even after the administration has indulged in wholesale cuts of congressional appropriations through the impoundment of various Federal programs. Despite the increase in collections each year, we have witnessed growth in the national debt during this 23-year period. Our national debt is rapidly approaching the one-half trillion dollar mark. This national debt has not only fueled inflation, it has severely damaged the international stability of the American dollar and has hampered the ability of the Federal Government to cope with current problems. Interest alone on the Federal debt this year amounts to well over $23 billion. Mr. President, just imagine what could be accomplished if this sum were available to solve the domestic problems which confront this Nation in education, health, housing, or the environment.

But one must ask: What does all this mean for the average American taxpayer? We must view these figures in human terms. In my view, our Nation faces a fiscal crisis which affects every American. For example, over 10 percent of the average American family's taxes go each year just to pay the interest on the national debt. Our Federal fiscal policy has had a devastating impact on those persons with fixed incomes, acquired savings, and insurance. It does not take an expert in economics to realize that excessive Federal spending has accelerated the cost of living for all Americans.

It is imperative that the 93d Congress act, and act decisively this session to rectify the dangerous situation created by continual Federal spending far in excess of income.

Within recent weeks, we have heard an uproar from the Congress over the administration's practice of impounding appropriated funds in an effort to control Federal spending for this fiscal year. Measures have been introduced to prohibit the executive from engaging in this practice, and hearings are presently being conducted on a bill introduced by Senator ERVIN. I, too, share the concern expressed by many that Congress should exercise primary control of fiscal matters, and in so doing, act as a "watchdog" over the Federal budget. My bill, if enacted, would assist the Congress in reasserting this historic role by providing the Congress with new mechanisms to make this process function better. However, the present fiscal crisis demanded immediate action to hold federal spending at a reasonable level. The President has done this, and under these conditions I support him. The conditions which led to this state of affairs need to be changed.

The real issue is who is going to control Federal expenditures—the Congress or the President. In my view, if the Congress has properly met its responsibility by asserting restraint over the Federal budget, then the administration would never have felt the necessity to engage in the withholding of congressional appropriations. Linked with any measure to restrict the executive's impoundment practices must also be the enactment of new and improved procedures in the appropriation process in order to better enable the Congress to control Federal spending.

Mr. President, I suggest the proposal which I am today introducing as one such major needed improvement. Briefly, my bill would bring about the following changes:

First, with the submission of the budget, the President would recommend to the Congress two limitations—a ceiling on Federal expenditures and net lending, and a limitation on the total amount of new obligational authority and loan authority to be made available for that fiscal year.

Second, before the appropriations process can begin, the Congress must establish these spending ceilings.

Third, this proposal would require that once these limitations are adopted by Congress and signed by the President, they would not be subject to modification except by two-thirds vote of both Houses of Congress. In effect, the process is the same as overriding a Presidential veto.

Fourth, if appropriations made during the fiscal year exceed the congressionally adopted spending limitations, the President would then be authorized to proportionately reduce spending on all budget items with the exception of the following: interest, veterans' benefits and services, payments from social insurance trust funds, social services grants under title IV of the Social Security Act and military retirement pay.

This is not an entirely new approach to the problem of runaway Federal spending. In fact, a similar proposal was adopted by the Senate last October with passage of the Jordan amendment to the debt ceiling bill. I believe that, if enacted, this bill would go far in establishing fiscal responsibility without surrendering to the President the historical role that the Congress has traditionally exercised. In addition, it would help restore a measure of fiscal integrity to the Federal Government, lessen the possibility for a tax increase, and avoid the temptation for the President to wield power indiscriminately and without regard for congressional spending priorities. I can not overemphasize that, with these new procedures, the Congress will be able to retain jurisdiction of its constitutional responsibility to control the Federal purse strings. Certainly, the concept of an annual spending ceiling is an idea whose time has come.

Enactment of a ceiling on expenditures and appropriations before the appropriations process begins would require Congress to continually monitor the level of appropriations to hold the total at or below the ceiling and hopefully within anticipated revenues. Such constant attention to the Nation's fiscal condition is an important step toward greater fiscal responsibility. States and municipalities follow this practice. So do successful business enterprises and millions of American families as they plan the household budget. The Federal Government cannot forever continue on its current financial course without certain economic catastrophe.

Mr. President, under the existing practices, the Congress has the best of all possible worlds. We can say "yes" to every group that comes to us with a request for more money, and then point an accusing finger at the administration when groups come to us asking why the full amount appropriated has not been released for spending. Frankly, this system seems not only unfair but downright hypocritical and callous.

Mr. President, as a former Governor of a State which once faced financial chaos but which now operates in a fiscally responsible manner, I know that government can put its financial house in order. I know, also, that government officials need certain tools and restraints to help them resist the constant pressures to do more and more and tax less and less. Congress needs these tools and restraints now. Based on this premise, I urge immediate action upon this proposal.

I ask unanimous consent that my 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. 703

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 "Fiscal Responsibility Act".

ANNUAL CEILINGS ON EXPENDITURES AND NEW OBLIGATIONAL AUTHORITY

SEC. 2. (a) After the submission of the Budget of the United States Government and upon recommendation of the President for each fiscal year (beginning with the fiscal year ending June 30, 1974), the Congress shall, by law, prescribe a limit on—

(1) the total amount of expenditures and net lending to be made by the United States Government during such fiscal year, and

(2) the total amount of new obligational authority and loan authority to be made available for such fiscal year: *Provided,* That no change in a limitation once established for the fiscal year by the provisions of this subsection shall be made except by an affirmative vote of two-thirds of the membership of the House of Representatives and the Senate present and voting.

(b) (1) Notwithstanding the provisions of any other law, the President shall, in accordance with paragraph (2), reserve from expenditure and net lending during each fiscal year, from appropriations or other obligational authority otherwise made available, such amounts as may be necessary to keep expenditures and net lending during the fiscal year within the limit on the total amount prescribed for the fiscal year pursuant to subsection (a)(1).

(2) In carrying out the provisions of paragraph (1) for any fiscal year, the President shall reserve amounts proportionately from appropriations or other obligational authority available for such fiscal year for all programs and activities of the Government (other than expenditures for interest, vet-

erans' benefits and services, payments from social insurance trust funds, social service grants under Title IV of the Social Security Act and military retirement pay).

(c) (1) Notwithstanding the provisions of any other law, the President shall, in accordance with paragraph (2), reserve from the new obligational and loan authority for each fiscal year such amounts as may be necessary to keep the new obligational authority and loan authority for the fiscal year within the limit on the total amount prescribed for the fiscal year pursuant to subsection (a)(2). The amounts so reserved are hereby rescinded as of the close of such fiscal year. Within 90 days after the close of such fiscal year, the President shall make a report to the Congress identifying the amounts reserved pursuant to this paragraph.

(2) In carrying out the provisions of paragraph (1) for any fiscal year, the President shall reserve amounts proportionately from new obligational authority and loan authority made available for such fiscal year for all programs and activities of the Government (other than for expenditures for interest, veterans' benefits and services, payments from social insurance trust funds, social services grants under Title IV of the Social Security Act and military retirement pay).

(d) In the administration of any program as to which—

(1) the amount of expenditures or obligations for any fiscal year is limited pursuant to subsection (b) or (c), and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution for such fiscal year, the amount available for expenditure or obligation (as determined by the President pursuant to subsection (b) or (c)) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

SEC. 3. (a) Except as provided in subsection (b), it shall not be in order, in either the House of Representatives or the Senate, to consider any bill or joint resolution making appropriations for any fiscal year beginning with the fiscal year ending June 30, 1974, prior to the date of the enactment of a law prescribing, pursuant to section 2, a limit on the total amount of expenditures and net lending to be made by the United States Government during such fiscal year and a limit on the total amount of new obligational and loan authority to be made available for such fiscal year.

(b) Subsection (a) shall not apply with respect to any appropriation requested by the President if, in submitting the request for such appropriation, the President certified that an emergency requires the prompt enactment of legislation making such appropriation.

(c) Subsection (a) shall not be construed to preclude the holding of hearings or other consideration by any committee of the House of Representatives or the Senate, or any joint committee of the two Houses, with respect to proposed expenditures and proposed new obligational authority and loan authority set forth in the Budget of the United States Government submitted by the President for any fiscal year.

(d) This section is enacted by the Congress—

(1) as an exercise of the rulemaking powers of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (as far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

By Mr. METCALF:

S. 704. A bill to restore the independence of certain regulatory agencies of the Federal Government. Referred to the Committee on Government Operations.

SEPARATION OF REGULATORY COMMISSIONS FROM THE EXECUTIVE

Mr. METCALF. Mr. President, I introduce for appropriate reference a bill to restore the independence of certain regulatory agencies of the Federal Government.

Known as the "Regulatory Agencies Independence Act," this is a greatly strengthened and expanded version of S. 448, which I introduced in the last Congress, and on which 7 days of hearings were held by the Subcommittee on Intergovernmental Relations, of the Committee on Government Operations.

The purpose of this legislation is to separate completely the operations of seven regulatory commissions from the executive branch with respect to: the formulation and submission of their budgets; the clearance of information requests under the Federal Reports Act; the control of litigation; the appointment and tenure of commission chairmen and vice chairmen; the submission of legislative recommendations; and the apportionment of funds under the Antideficiency Act.

The seven regulatory commissions which are covered by the legislation are: The Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, and the Securities and Exchange Commission.

Mr. President, the original bill S. 448 provided only that these commissions transmit their estimates and requests for appropriations directly to the Senate and House. Such requests were to be in addition to, and not in lieu of, proposals transmitted by the OMB.

The hearings brought out the facts that these "arms of Congress," which Congress intended to be independent, with quasi-legislative and quasi-judicial powers, were being subjected to the executive budget-cutting process the same as executive departments and agencies, and that in many cases, notably that of the Federal Trade Commission and the Securities and Exchange Commission, their functions and effectiveness were being impaired by the refusal of the OMB to give them what they urgently need to do their investigative and regulatory work.

The legal justification for the executive exerting this power is found in a little remembered provision in the Reorganization Act of 1939 which included these agencies in the definition of Federal departments and agencies covered in the Budgeting and Accounting Act and other statutes.

It is the intent of this bill to reverse this situation and to separate the commissions completely from the executive budget process and remove any leverage in law over their budget formulation and submission.

The hearings also disclosed that the OMB was using its budgeting powers and authority under the Antideficiency Act (31 U.S.C. 665) to affect the number and quality of commission personnel, the organization of commission offices and in some instances special programs and investigations.

Thus, in developing this legislation, we found it necessary to take the commissions out from under the apportionment control section of the Antideficiency Act and substituting therefor the authority in the Comptroller General to assure that the regulatory commission is complying with other sections of the act.

The hearings further brought out that the Department of Justice was in the position to control and influence the pursuit of litigation by the independent commissions and that such commissions were required to have Justice lawyers rather than their own in many situations, particularly with respect to appeals. This provided just another facet of executive branch control of operations and policymaking by arms of Congress.

In addition, as we all have known for years, the independent commissions were required to submit their legislative statements and recommendations to the OMB for approval before they came to Congress. This was apparently a practice that emerged during the days of the New Deal without any legislative authority. So, this needs to be remedied.

Testimony at the hearings indicated that there may be developing too close a relationship between commission chairmen and Executive Office staff representing the President. The law permits appointment of chairman by the President without advice and consent of the Senate. We felt that, if the President is to "have his own man" directing a commission, we should be able to look into his qualifications and policies in the new role as chairman.

Finally, after many days of hearings into the operation of the OMB under the Federal Reports Act, we were amazed to find that very special and essential surveys, questionnaires, and inquiries by regulatory commissions into corporate activities had to be cleared by the Director of OMB—who relied heavily on business advisory committees for his clearance decisions. Industry was in the OMB right at the start of a commission's inquiry. We felt this practice not to be consistent with Congress intent to make these regulatory commissions independent. Accordingly, the proposed bill takes them out from under the Federal Reports Act.

Mr. President, I ask unanimous consent that a memorandum from the Library of Congress, American Law Division, dated December 15, 1972, in which are cited all the code references where the Executive has powers over the operations of the commissions, be placed in the RECORD at this point.

I also ask unanimous consent that a copy of the bill to restore the independence of regulatory agencies, which I

have introduced, be placed in the RECORD at this point.

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

PROPOSED AMENDMENT OF S. 448 SO AS TO WITHDRAW REGULATORY AGENCIES FROM EXECUTIVE CONTROL

Reference is made to our recent discussion of this subject matter and our letter to you respecting our understanding of the areas to be reserached. A copy of our letter is enclosed in which we list six subject areas for examination. We have checked the index to the U.S. Code under several headings for citations to pertinent provisions, and have made some examination of indexes to executive orders for references to orders touching on the areas under consideration; however, with respect to executive orders we have, due to the time limitation, relied largely on an examination of those orders set out as notes under sections of the U.S. Code. Citations are presented below under the headings of: (A) General, and (B) Selected Regulatory Agencies.

A. GENERAL

1. Budgeting supervision by the Officer of Management and Budget:

(a) 31 U.S.C. secs. 2, 11, 14, 15, 16, 18, 21, 22, 23, 24.

(b) 31 U.S.C. secs. 581, 665, 669, 1151.

(c) E.O. 6715, 31 U.S.C. sec. 11 note.

(d) Reorganization Plan 1 of 1939, Part 1, sec. 1, and Message of President (his comment on Executive Office of President) 5 App. U.S.C. note.

(e) Reorganization Plan 2 of 1970, 31 U.S.C. sec. 16 note.

(f) E.O. 9384, 31 U.S.C. sec. 21 note.

2. Disposition of Legal cases by the Department of Justice:

(a) 28 U.S.C. secs. 514–520.

3. Legislative recommendations supervisions by the Office of Management and Budget.

We recall your stating that this is covered by a circular of the Bureau of the Budget of 1939. We requested a copy of the 1939 circular which, however, was not in the material sent us. There was a circular of November 15, 1937 (Circular No. 344) which requires submission to the Bureau of the Budget of recommendations and reports concerning proposed or pending legislation. A copy of this circular and others sent us by the Office of Management and Budget are enclosed.

4. Approval of investigations and surveys involving more than ten persons by the Office of Management and Budget:

(a) 44 U.S.C. sec. 3509.

5. Designation of Commission Chairman by the President.

No general provision is found for designation of a commission chairman by the President. We have examined the law concerning the several independent agencies listed in the United States Government Organization Manual 1972/1973 beginning on page 372 and extending through page 538 and find that these laws, with a few exceptions, provide for the naming of a chairman by the President. We provide pertinent citations below to Selected Regulatory Agencies.

6. Other activities regulated or controlled by the Executive:

(a) The Federal Reports Act of 1942, 44 U.S.C. secs. 3501–3511, gives the Office of Management and Budget the right to review and control with respect to Federal Reporting Services.

The above areas, we believe, represent the major encroachments on the independence of regulatory agencies. These encroachments are fully discussed by Commissioner Everette MacIntyre of the Federal Trade Commission in an address before the Capitol Hill Chapter of the Federal Bar Association, Washington, D.C., January 16, 1969. A copy of his address on that occasion "Regulatory Independence, Factual or Fanciful" is enclosed.

B. SELECTED REGULATORY AGENCIES

We have examined the law with respect to thirteen agencies for provisions which would seem pertinent to the six areas of interest listed above under part (A) and list below citations for your examination. The citations are listed in numbered paragraphs which correspond to the numbering in part (A) above. No provisions were located for areas 1, 3, and 4.

Atomic Energy Commission

2. 42 U.S.C. secs. 2210(h), 2224, 2271, 2280, 2281, 2282.

5. 42 U.S.C. sec. 2031.

6. (Other activities regulated or controlled by the Executive):

(a) 42 U.S.C. secs. 2032, 2036, 2037, 2202, E.O. 9816 and 9829, 42 U.S.C. sec. 2031 note.

(b) E.O. 10841, 42 U.S.C. sec. 2153 note.

(c) E.O. 11057, 10899, 42 U.S.C. sec. 2162 note.

(d) E.O. 11477, 42 U.S.C. sec. 2187 note.

Civil Aeronautics Board

5. 49 U.S.C. sec. 1321 and notes.

6. 49 U.S.C. sec. 1321 and notes.

Equal Employment Opportunity Commission

2. 42 U.S.C. secs. 2000e–4(f)(6); 2000e–5(e).

5. 42 U.S.C. sec. 20003–4(a).

6. 42 U.S.C. sec. 2000e–4(a).

Federal Communications Commmission

2. 47 U.S.C. sec. 401.

5. 47 U.S.C. sec. 154.

6. 47 U.S.C. sec. 154.

Federal Maritime Commission

2. 46 U.S.C. secs. 828, 1114.

5. Reorganization Plan of 1961—26 F.R. 7315, 75 Stat. 840, 5 U.S.C. App. Plan of 1961 No. 7.

6. Same as above.

Federal Power Commission

2. 16 U.S.C. sec. 825m(a).

5. 16 U.S.C. sec. 792.

6. 16 U.S.C. sec. 792.

Federal Reserve Board

5. 12 U.S.C. sec. 242.

6. 12 U.S.C. secs. 241, 242, 249.

Federal Trade Commission

2. 15 U.S.C. secs. 45, 49, 50, 56, 64, 65, 68d, 68h, 69f, 69i, 70e, 70i, 1194; P.L. 92–573, sec. 22(a) [Consumer Product Safety Act—Injunctive Enforcement and Seizure].

5. 15 U.S.C. sec. 41.

6. 15 U.S.C. sec. 41.

Interstate Commerce Commission

2. 49 U.S.C. secs. 12(1), 16(10), (12), 19a(1), 20(9), 43, 44, 45, 319, 322h, 916, 1017, 26(k).

5. Reorganization Plan No. 1 of 1969, 34 Fed. Reg. 15783, 83 Stat. 859, 49 U.S.C. sec. 11 note.

6. 49 U.S.C. sec. 11.

National Labor Relations Board

5. 29 U.S.C. sec. 153(a).

6. E.O. 10918 sec. 3, 28 U.S.C. sec. 141 note 29 U.S.C. sec. 153(a), (d). E.O. 11482 sec. 7(c), 29 U.S.C. sec. 171 note.

Occupational Safety and Health Review Commission

2. 29 U.S.C. sec. 663.

5. 29 U.S.C. sec. 661.

6. 29 U.S.C. sec. 661.

Renegotiation Board

5. 50 U.S.C. App. sec. 1217.

6. 50 U.S.C. App. sec. 1217.

Securities and Exchange Commission

2. 15 U.S.C. sec. 78u(e), 78bbb, 79r(f), 80a–41.

5. Reorganization Plan No. 10 of 1950, 15 F.R. 3175, 64 Stat. 1265, 15 U.S.C. sec. 78d note; 78bbb.

6. 15 U.S.C. sec. 78d; 78bbb.

C. OTHER

1. Creation in General Accounting office of authority to review budgets submitted by regulatory agencies.

We see no constitutional impediments to enactment of legislation granting to the General Accounting Office authority to review budgets submitted by the independent regulatory agencies. There is some question, however, as to the power of Congress to insulate commissioners of the independent regulatory agencies from removal by the President; these issues are discussed in a volume we are sending on loan: Cushman, *The Independent Regulatory Commissions*, Part VI, "The Constitutional Status of the Independent Regulatory Commissions," 1941. Also enclosed are a copy of *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935), a copy of a law review article, MacIntyre, *The Status of Regulatory Independence*, 29 Fed. B. J. 1 (1969), and a copy of a selected bibliography from the Ash Council's Report: The President's Advisory Council on Executive Organization, *A New Regulatory Framework, Report on Selected Independent Regulatory Agencies*, 1971. The recommendations of the Ash Council are discussed in the following law review articles: *Proceedings of the National Institute on New Techniques in Regulating Business: The Ash Council's Recommendations Held on April 16 and 17, 1971*, 23 Admin. L. Rev. 321 (June 1971); and *Symposium on Federal Regulatory Agencies: A Response to the Ash Report*, 57 Virginia L. Rev. 925 (Sept. 1971).

2. Information on the regulation and apportioning of funds appropriated to the:

(a) Architect of the Capitol.

(b) Library of Congress.

(c) General Accounting Office.

(d) Botanical Gardens.

(e) U.S. Senate.

(f) U.S. House of Representatives.

(g) Smithsonian Institution.

All of the above agencies except the Smithsonian are in the Legislative Branch of the Government. The Smithsonian is carried in the Department of Interior Appropriation which seems to place it in the Executive Department. We have contacted the Budget Officer here at the Library of Congress for information on what restraints, if any, are exercised by the Executive in the matter of apportioning appropriated funds. We were referred to 31 U.S.C. sec. 665, and it was stated to us that in the Legislative Branch the agency head is charged with the apportioning responsibility while in the Executive Branch the apportioning is by the Officer of Management and Budget.

D. PREPARED MATERIALS, ETC.

Copies of all items referred to above are enclosed.

HUGH P. PRICE,
GEORGE A. COSTELLO,
Legislative Attorneys.

S. 704

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 "Regulatory Agencies Independence Act".

SUBMISSION OF BUDGET ESTIMATES DIRECTLY TO CONGRESS

SEC. 2. (a) Section 206 of the Budget and Accounting Act, 1921 (31 U.S.C. 15), is amended—

(1) by striking out "No" and inserting in lieu thereof the following: "(a) Except as provided in subsection (b) of this section, no"; and

(2) by adding at the end thereof the following new subsection:

"(b) Each of the following agencies shall transmit its estimates and requests for regular, supplemental, and deficiency appropriations directly to the Senate and House of

Representatives: the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, and the Securities and Exchange Commission. Such estimates and requests shall reflect the judgment of the agency concerned and shall not be changed at the direction of any other agency of the Government. Estimates and requests transmitted pursuant to this section shall be in addition to, and not in lieu of, estimates, requests, and proposals transmitted pursuant to any other provision of this title."

(b) The last sentence of section 207 of such Act (31 U.S.C. 16) is amended by inserting after "shall have authority" a comma and the following: "except as otherwise provided in section 206(b),".

(c) The amendments made by this section shall apply with respect to budgets and requests for fiscal year 1975 and thereafter.

LEGISLATIVE RECOMMENDATIONS NOT SUBJECT TO CLEARANCE

SEC. 3. Any communication to Congress respecting legislation, made by the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, or the Securities and Exchange Commission, shall not be submitted to, or be subject to change by, the Office of Management and Budget or any other authority.

CLEARANCE TO OBTAIN INFORMATION NOT REQUIRED

SEC. 4. (a) Chapter 35 of title 44, United States Code, is amended—

(1) by inserting in the first paragraph of section 3502, immediately after "General Accounting Office", a comma and the following: "the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Securities and Exchange Commission,"; and

(2) by adding at the end thereof the following new section:

§ 3512. Exemption of regulatory agencies

"Any determination to collect information, any plan or form to be used in the collection of information, and the collection of information, by the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, or the Securities and Exchange Commission shall not be submitted, or subject to the approval of, the Office of Management and Budget or any other authority."

(b) The analysis of such chapter 35, immediately preceding section 3501, is amended by adding at the end thereof the following new item:

"3512. Exemption of regulatory agencies."

CONTROL OF LITIGATION

SEC. 5. (a)(1) Section 201 of the Federal Aviation Act of 1958 (49 U.S.C. 1321) is amended by adding at the end thereof the following new subsection:

"(d) Nothwithstanding any other provision of law—

"(1) in any civil action, the Board is authorized to act in its own name and through its own attorneys; and

"(2) attorneys for the Board shall supervise, and may in the discretion of the Board conduct, all litigation in any civil action to which the Board is a party."

(2) Section 1008 of such Act (49 U.S.C. 1488) is amended by striking out "Board or the Administrator, as the case may be," and inserting in lieu thereof "the Administrator".

(b) Section 4 of the Communications Act of 1934 (47 U.S.C. 154) is amended by adding at the end thereof the following new subsection:

"(p) Nothwithstanding any other provision of law—

"(1) in any civil action the Commission is authorized to act in its own name and through its own attorneys; and

"(2) attorneys for the Commission shall supervise, and may in the discretion of the Commission conduct, litigation in any civil action to which the Commission is a party."

(c) Notwithstanding any other provision of law—

(1) in any civil action the Federal Maritime Commission is authorized to act in its own name and through its own attorneys; and

(2) attorneys for the Commission shall supervise, and may in the discretion of the Commission conduct, litigation in any civil action to which the Commission is a party.

(d) Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

"(m) Notwithstanding any other provision of law—

"(1) in any civil action the Commission is authorized to act in its own name and through it own attorneys; and

"(2)" attorneys for the Commission shall supervise, and may in the discretion of the Commission conduct, litigation in any civil action to which the Commission is a party."

(e) Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law—

"(1) in any civil action the Commission is authorized to act in its own name and through its own attorneys; and

"(2) attorneys for the Commission shall supervise, and may in the discretion of the Commission conduct, litigation in any civil action to which the Commission is a party."

(f)(1) Section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended by adding at the end thereof the following new paragraph:

"(13) Notwithstanding any other provision of law—

"(A) in any civil action the Commission is authorized to act in its own name and through its own attorneys; and

"(B) attorneys for the Commission shall supervise, and may in the discretion of the Commission conduct, litigation in any civil action to which the Commission is a party."

(2) Section 2323 of title 28, United States Code, is amended by striking out the first and fourth paragraph; by striking out "The Interstate Commerce Commission and any" in the second paragraph and inserting in lieu thereof "Any"; and by inserting "Interstate Commerce" before "Commission, in which" in such second paragraph.

(g) Section 310 of the Federal Power Act (16 U.S.C. 825i) is amended—

(1) by inserting "; LITIGATION" immediately after "EMPLOYEES" in the section heading;

(2) by inserting "(a)" immediately after "SEC. 310."; and

(3) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law—

"(1) in any civil action the Commission is authorized to act in its own name and through its own attorneys; and

"(2) attorneys for the Commission shall supervise, and may in the discretion of the Commission conduct, litigation in any civil action to which the Commission is a party."

(h) Section 2348 of title 28, United States Code, is amended—

(1) by inserting ", other than proceedings to review orders of the Federal Communications Commission or the Federal Maritime Commission" before the period at the end of the first sentence; and

(2) by inserting "(other than such Commissions)" after "The agency" where it first appears in the second sentence.

(i) Subsection (c) of this section and the amendments made by this section shall not apply to any civil action commenced before the date of enactment of this Act, but, in any civil action commenced before such date in which the Board or any commission referred to in such amendments or such subsection has an interest, attorneys for that Board or such commission (as the case may be) may, by leave of the court, appear as a friend of the court.

APPOINTMENT AND TENURE OF AGENCY CHAIRMAN AND VICE CHAIRMAN

SEC. 6. (a) Section 201(a)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1321(a)(2)) is amended by striking out "designate annually" in the last sentence and inserting in lieu thereof "appoint, by and with the advice and consent of the Senate,"; and by adding at the end thereof the following: "Any member appointed as chairman or vice chairman shall serve as such until the expiration of his term as a member of the Board (except that he may continue to serve as chairman or vice chairman, as the case may be, for so long as he remains a member and his successor as chairman or vice chairman has not taken office). In considering any nomination to the office of chairman or vice chairman the Senate shall give careful consideration to the qualifications of the nominee. An individual may be appointed as a member at the same time he is appointed chairman or vice chairman."

(b) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)) is amended by striking out "one of whom the President shall designate as chairman" and inserting in lieu thereof "one of whom shall be appointed chairman by the President by and with the advice and consent of the Senate. A commissioner appointed as chairman shall serve as such until the expiration of his term as a commissioner of the Commission (except that he may continue to serve as chairman for so long as he remains a commissioner and his successor as chairman has not taken office). In considering any nomination to the office of chairman the Senate shall give careful consideration to the qualifications of the nominee. An individual may be appointed as a commissioner at the same time he is appointed chairman.".

(c)(1) One of the commissioners of the Federal Maritime Commission appointed under section 102 of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) by the President, by and with the advice and consent of the Senate, shall be appointed chairman by the President, by and with the advice and consent of the Senate. A commissioner appointed as chairman shall serve as such until the expiration of his term as a commissioner of the Commission (except that he may continue to serve as chairman for so long as he remains a commissioner and his successor as chairman has not taken office). In considering any nomination to the office of chairman the Senate shall give careful consideration to the qualifications of the nominee. An individual may be appointed as a commissioner at the same time he is appointed chairman.

(2) Subsection (b) of such section 102 is no longer effective.

(d)(1) The first sentence of the first section of the Federal Power Act (16 U.S.C. 792) is amended by striking out all that follows "consent of the Senate," and inserting in lieu thereof "one of whom shall be appointed as chairman by the President, by and with the advice and consent of the Senate. The commissioner so appointed shall serve as chairman until the expiration of his term

as a commissioner of the Commission (except that he may continue to serve as chairman for so long as he remains a commissioner and his successor as chairman has not taken office). In considering any nomination to the office of chairman the Senate shall give careful consideration to the qualifications of the nominee. An individual may be appointed as a commissioner at the same time he is appointed chairman.".

(2) Section 3 of Reorganization Plan Numbered 9 of 1950 (64 Stat. 1265) is no longer effective.

(e)(1) The fourth sentence of the first section of the Federal Trade Commission Act (15 U.S.C. 41) is amended to read as follows: "The President shall appoint a chairman from the Commission's membership, by and with the advice and consent of the Senate; and the Commissioner so appointed shall serve as Chairman until the expiration of his term as Commissioner (except that he may continue to serve as Chairman for so long as he remains a Commissioner and his successor as Chairman has not taken office). In considering any nomination to the office of Chairman the Senate shall give careful consideration to the qualifications of the nominee An individual may be apointed as a Commissioner at the same time he is appointed as Chairman."

(2) Section 3 of Reorganization Plan Numbered 8 of 1950 (64 Stat. 1264) is no longer effective.

(f)(1) Section 4(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new sentence: "The President shall appoint a chairman from the Commission's membership, by and with the advice and consent of the Senate; and the commissioner so appointed shall serve as Chairman until the expiration of his term as commissioner (except that he may continue to serve as Chairman for so long as he remains a commissioner and his successor as Chairman has not taken office). In considering any nomination to the office of Chairman, the Senate shall give careful consideration to the qualifications of the nominee. An individual may be appointed as a commissioner at the same time he is appointed as chairman."

(2) Section 3 of Reorganization Plan Numbered 10 of 1950 (64 Stat. 1205) is no longer effective.

(g)(1) Section 11 of the Interstate Commerce Act (49 U.S.C. 11) is amended by adding at the end thereof the following: "The President shall appoint a chairman from the Commission's membership, by and with the advice and consent of the Senate; and the commissioner so appointed shall serve as chairman until the expiration of his term as commissioner (except that he may continue to serve as chairman for so long as he remains a commissioner and his successor as chairman has not taken office). In considering any nomination to the office of chairman, the Senate shall give careful consideration to the qualifications of the nominee. An individual may be appointed as a commissioner at the same time he is appointed as chairman."

(2) Section 3(a) of Reorganization Plan Numbered 1 of 1969 (83 Stat. 859) is no longer effective.

(h) Subsection (c) of this section and the amendments made by this section shall not apply to the service as chairman or vice chairman of the Board or any commission referred to in such subsection or amendments, of any person who was serving as chairman or vice chairman of that Board or commission on the date of enactment of this Act, except that in the case of a person serving as vice chairman for a fixed term, such amendments and subsection shall apply at the end of such term.

INDEPENDENCE IN APPORTIONING APPROPRIATIONS

SEC. 7. (a) Section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) is amended as follows:

(1) In the first sentence of subsection (d)(1), immediately after "the judiciary,", insert the following: "an independent regulatory agency,".

(2) The fifth sentence of subsection (d)(2) is amended by inserting immediately before the period at the end thereof a comma and the following: "but does not include an independent regulatory agency".

(3) In subsection (g), immediately after "the judiciary,", insert "an independent regulatory agency,".

(4) Add the following new subsection at the end thereof:

"(j)(1) The Comptroller General of the United States shall review from time to time actions taken by each independent regulatory agency under this section. The Comptroller General shall make such recommendations as he considers appropriate to such agency whenever he determines that such agency is not complying with the provisions of this section, or is able to improve its administration of this section. Any such determination or recommendation shall be promptly reported to Congress.

"(2) When used in this section, the term 'independent regulatory agency' means the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, or the Securities and Exchange Commission."

(b) The amendments made by this section shall apply with respect to appropriations made for fiscal year 1975 and thereafter.

By Mr. HUMPHREY:

S. 705. A bill to provide employment opportunities in public service for unemployed persons, to assist States and local communities in providing urgently needed public services, and for other purposes. Referred to the Committee on Labor and Public Welfare.

EMPLOYMENT OPPORTUNITIES ACT OF 1973

Mr. HUMPHREY. Mr. President, I introduce, for appropriate reference, legislation that can enable this Nation to at last launch a decisive advance toward the objective of the Employment Act of 1946, "to promote maximum employment, production, and purchasing power."

It has become abundantly clear that the Nixon administration does not believe this goal must be achieved. It has been satisfied with a reduction in the level of unemployment to 5.2 percent from a disastrous rate of 6 percent a year ago. Having changed its unemployment target rather than improve its manpower policy and program aim, the administration now finds acceptable a situation where over 4 million people are out of work, not counting hundreds of thousands more who have dropped out of the labor force in despair. No matter that in a time of hopeful economic recovery, nationwide unemployment still is almost 1½ times the rate of 1969; no matter that almost one-third of the 150 major labor areas in America are classified by the Manpower Administration as areas of substantial or persistent unemployment, with which 830 other labor areas are also afflicted—still this administration presumes to congratulate itself on a current trend toward full capacity in the economy. And at the same time that it seeks to erase a past record of incredible mismanagement that produced an unprecedented situation of escalating inflation and extensive recession, this administration apparently would now seek to avoid its full responsibility to continually monitor developing signs of inflationary pressure that, with a renewal of impulsive fiscal and monetary management policies, could lead to an economic downturn in 1974.

NIXON FISCAL 1974 BUDGET SHARPLY DOWNGRADES MANPOWER

These efforts can only be compounded by an incredible administration decision in the proposed fiscal 1974 budget to reduce significantly national efforts to combat joblessness, and to curtail job training and employment opportunities for the thousands upon thousands of Americans who continue to be swept aside from the economic mainstream by poverty and racial discrimination. The Nixon administration blinds itself to the facts of economic good sense when it fails to build on the bases of vital job training and experience programs. For these programs have demonstrated clearly that the added income produced by employment resulting from enrollment in these programs yields returns many times over on the Federal cost dollar—and it is increased national income that is the most direct route to reducing Government fiscal deficits, thereby alleviating the need for increased taxes.

But the Nixon administration has presented a Federal budget for fiscal 1974 which not only proposes major cutbacks in funds for these programs, but also cancels some of them out altogether, and, moreover, even calls for the outright repeal of substantial manpower appropriations already enacted for the current fiscal year.

Instead, the Nixon administration now intends, in effect, to wash its hands of this major national responsibility by again calling for a modest program of manpower revenue sharing as if reorganization were a substitute for action. And, not content merely to propose this scheme, the President presumes to compel its approval by announcing that all new enrollments in major adult and youth job training programs have already been halted as plans are made for the changeover—meaning that Members of Congress are to acquiesce in approving manpower revenue sharing, or no Federal assistance will be allocated to their districts to combat further joblessness in areas of poverty or a crisis level of teenage unemployment this summer.

Meanwhile, the administration intends to cut back even existing levels of help. It proposes the outright repeal of $284 million in fiscal 1973 appropriations for economic opportunity manpower programs. It calls for a reduction of $66 million in fiscal 1974 outlays for the Job Corps, under which 11,000 fewer young men and women will be able to obtain vital work experience during the next fiscal year.

Overall, the administration plans to reduce outlays for manpower training and employment services for fiscal 1974 by over $600 million. This will result in part from the phaseout of emergency employment assistance.

Let me reiterate that last point: With several million Americans out of work, the Nixon administration intends to bring to a complete halt the public service jobs programs under the Emergency Employment Act. Once again, this administration would solve a problem simply by announcing that the problem no longer exists—in this case, finding the discontinuation of emergency employment assistance to be "consistent with the increase in new jobs in the private sector," as announced in the document entitled "The United States Budget in Brief." This half truth clearly exposes the Nixon administration's determination to see only what it wants to see in determining spending priorities for domestic needs. It ignores continuing and extensive human despair and anxiety. It ignores the fact that these programs under the Emergency Employment Act have been of vital importance in areas of substantial unemployment across America, providing some 190,000 jobs in services that are critically needed by our communities.

But of equal importance, the Nixon administration apparently intends to ignore the continuing crisis level of joblessness among America's youth. In addition to cutting back and dissipating the Job Corps, the administration also proposes to subsume the vital Neighborhood Youth Corps programs under its manpower revenue-sharing proposal, and at a reduced level of funding. Already, outlays for Neighborhood Youth Corps in-school, summer, and out-of-school programs have been cut back by some $94 million in fiscal 1973. By extracting comparison figures as a proportion of so-called "work support" outlays under the proposed fiscal 1974 budget, it would appear that another $50 million will be withdrawn from these Neighborhood Youth Corps programs.

CONGRESSIONAL ACTION DEMANDED TO ADDRESS CONTINUING CRISIS OF UNEMPLOYMENT

The Employment Opportunities Act of 1973, which I am introducing today, would halt this regression in Federal manpower policy and programs. It would establish a permanent program of public service employment as an integral part of the comprehensive manpower development and training legislation that must be enacted by this Congress, with the authorization for certain manpower programs funded under the Manpower Development and Training Act of 1962, as well as authority for the public service jobs program established by the Emergency Employment Act of 1971, scheduled to expire on June 30, 1973.

The time has now come for the Federal Government to become the employer of first opportunity—reversing its failure to become even employer of last resort—to restore the confidence of several million Americans and their hope in America's future.

This is the fundamental, direct purpose of the Employment Opportunities Act of 1973. Under this bill, 1,000,000 new public service jobs can be created, with an authorization of $7 billion for each of the fiscal years 1974 and 1975.

Behind the figures of a partial decline in unemployment, as total employment has increased by 2.4 million over the past year to a level of 82.9 million, are harsh facts of major groups of jobseekers still left with frustration and despair. For example, the decline in unemployment occurred wholly among adult workers. The unemployment rate for teenagers has remained at a crisis level of over 15 percent. And the unemployment rate for blacks, at 10 percent, showed an increase over the level a year ago. Moreover, a partial reflection of the problem of subemployment—a far more extensive problem than joblessness in areas of poverty—is found in an unemployment rate among part-time workers of 8.34 percent, almost the same as a year ago.

Widely publicized figures of increased employment among Vietnam-era veterans hide an unemployment rate that remains higher than the national average, and that is more than twice as much among black veterans. And figures do not tell the story of too many jobs that are menial and dead end, being all that veterans with better qualifications can find, or training schools or job fairs that still leave a veteran without a bona fide job offer, or a veteran being reclassified from "unemployed" to "college student" primarily to obtain GI bill benefits to help meet family living costs.

The Employment Opportunities Act can effectively help these people to help themselves, restoring their dignity and self-respect. It is designed to meet great unfilled public needs in such fields as environmental quality, health care, housing and neighborhood improvements, education, public safety, crime prevention and control, correctional and rehabilitation programs, recreation, maintenance of streets, parks, and other public facilities, rural development, transportation, and conservation—in short, jobs with a purpose—and to meet urgent requirements of our communities and States. The number of teachers, nurses, technicians, repairmen, park and recreation workers, policemen, firemen, and other occupational fields could be greatly expanded if local communities only had the funds.

The Employment Opportunities Act is direct and to the point. It would firmly establish a national policy to promote maximum employment. And it directs that this policy shall operate on a continuing and sustained basis, on the premise that no level of unemployment can be regarded as acceptable and, therefore, not in need of correction through Federal assistance. And to assure that a maximum effort is made across the Nation to combat joblessness, the bill designates broad categories of eligible public service employers, not distinguishing between communities on the basis of population size, or between public and private nonprofit agencies.

This bill establishes job creation levels that are achievable, assuring adequate supervision, supportive services, and safe working conditions. And it sets a level of authorizations that meets the test of fiscal responsibility. Funds are to be allocated fairly among and within the States with assistance that is directly proportional to local needs, but no State shall receive less than $1.5 million in any fiscal year. Every sector of a State's population is to receive equitable consideration in the apportionment of job creation assistance, and the misapplication or discriminatory use of Federal assistance for new public service jobs is prohibited. Moreover assistance must not result in the displacement of currently employed workers.

The Employment Opportunities Act requires that special consideration will be given to the job needs of Vietnam-era veterans—a priority that I firmly believe continues to be essential. And the emphasis throughout this legislation is that, wherever possible, job creation shall lead to advancement or suitable continued employment in either the public or private sector. But the immediate and central goal of this program is the provision of badly needed jobs that are also of critical importance to our communities in their efforts to maintain and improve public services.

THE DEMAND OF THE 1970'S: A COMPREHENSIVE AND EFFECTIVE MANPOWER POLICY

Finally, my bill draws upon provisions in the Employment and Manpower Act vetoed by President Nixon in 1970, to authorize the establishment of a National Council of Manpower Advisors. I believe it is essential right now to create this mechanism by which we can at last identify and review on a sustained basis and in a comprehensive manner the manpower goals and needs of the Nation. We confront projections of a steadily increasing work force over the coming decade and a labor market whose capacity for absorbing these new workers may be seriously limited in certain sectors and subject to significant alterations in other sectors as a consequence of rapid technological change.

We must take decisive action now on the basis of these forecasts to initiate the planning that can help our people find the jobs they need and have a right to expect, and to help American business and industry obtain the skilled and semiskilled labor resources they will increasingly require.

The National Council of Manpower Advisors will be composed of persons representative of labor, management, agriculture, public and private education, vocational education, vocational rehabilitation, manpower programs, and economic opportunity programs. In addition to assessing national manpower goals and needs, the council will continually evaluate the operation of federally assisted manpower programs and will make reports and recommendations for their improvement to the President and to Congress. And to anticipate the need for immediate and effective action in response to major economic dislocations arising from changing markets, rapid technological changes, plant shutdowns, or bcsiness failure, the council is author-

ized to develop an early warning system and standby capability, to be administered on a daily basis by the Secretary of Labor.

Mr. President, I believe the provisions I have outlined, in addition to further legislative action to improve and expand our manpower development and training programs, represent an absolute requirement in Federal policy if we are to address intelligently and forcefully the major issue of continuing, widespread joblessness and the need for sustained and beneficial economic growth in the coming decade.

Mr. President, I ask unanimous consent that the full text of the Employment Opportunities Act of 1973 be printed in the RECORD.

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

S. 705

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 "Employment Opportunities Act of 1973."

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds and declares that—

(1) to attain the objective of the Employment Act of 1946 to promote maximum employment, production, and purchasing power, we must assure an opportunity for gainful, productive job to every American who is seeking work;

(2) there are great unfilled public needs in such fields as environmental quality, health care, housing and neighborhood improvements, education, public safety, crime prevention and control, correctional and rehabilitation programs, recreation, maintenance of streets, parks, and other public facilities, rural development, transportation, beautification, conservation, and other fields of human betterment and public improvement;

(3) to meet the urgent need for greater public services and the equally urgent need for public service employment which will provide meaningful jobs for unemployed persons, it is appropriate public policy to devote substantial resources to providing public service employment opportunities;

(4) expanded work opportunities must keep pace with the increased number of persons in the labor force, including the many young persons who are entering the labor force, persons who have recently been separated from military service, and older persons who desire to remain in, enter, or reenter the labor force;

(5) many of the persons who have become unemployed as a result of technological changes and shifts in the pattern of Federal expenditures, as in the defense, aerospace, and construction industries, could usefully be employed in providing needed public services;

(6) unemployment severely affects the families of disadvantaged groups in our society, especially the poor and migrants, persons of limited English-speaking ability, and others from socioeconomic backgrounds which have generally experienced high unemployment; and

(7) providing resources for public service employment for unemployed persons can help as an economic stabilizer both to ease the impact of unemployment for the affected individuals and to reduce the pressures which tend to generate further unemployment.

AUTHORIZED APPROPRIATIONS

SEC. 3. For the purpose of carrying out this Act, there are authorized to be appropriated $7,000,000,000 annually for the fiscal year ending June 30, 1974, and for the succeeding fiscal year.

FINANCIAL ASSISTANCE

SEC. 4. (a) The Secretary of Labor shall enter into arrangements with public service employers in accordance with the provisions assistance available for the purpose of providing employment opportunities for unemployed persons in jobs providing needed public services.

(b) Financial assistance shall be provided under this Act pursuant to applications submitted by eligible public service employers, which shall be—

(1) States;

(2) cities, counties, and other units of general local governments;

(3) local educational agencies and community colleges; and

(4) other public or private nonprofit agencies and institutions, and institutions of the Federal Government, which operate facilities and programs providing public services.

APPLICATIONS

SEC. 5. (a) An application for financial assistance for the purpose of carrying out a public service employment program under this Act shall set forth a public service employment program, and related training and manpower services, designed to provide jobs for unemployed persons in providing needed public services in such fields as environmental quality, health care, housing and neighborhood improvements, education, public safety, crime prevention and control, correctional and rehabilitation programs, recreation, maintenance of streets, parks, and other public facilities, rural development, transportation, beautification, conservation, and other fields of human betterment and public improvement.

(b) An application for financial assistance for a public service employment program under this Act shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this Act will be administered by or under the supervision of the applicant, identifying any agency or institution designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that special consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advancement of participants to employment or training opportunities suitable to the individuals involved, whether in the public or private sector of the economy, (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(4) assurances that special consideration in filling public service jobs will be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have received other than dishonorable discharges); and that the applicant shall (A) make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment services for veterans) or carried out by other public or private organizations or agencies;

(5) assurances that, to the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector;

(6) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(7) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(8) a description of unmet public service needs and a statement of priorities among such needs;

(9) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration for which participants would be assigned to such jobs;

(10) the wages or salaries to be paid persons employed in public service jobs under this Act and a comparison with the wages paid for similar public occupations by the same employer;

(11) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(12) the planning for and training of supervisory personnel in working with participants;

(13) a description of career opportunities and job advancement potentialities for participants;

(14) assurances that agencies and institutions to whom financial assistance will be made available under this Act will undertake analysis of job descriptions and a reevaluation of skill requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations promulgated by the Secretary;

(15) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this Act who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (B) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

(16) assurances that all persons employed under any such program, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed persons;

(17) assurances that the program will, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged; and

(18) such other assurances, arrangements, and conditions, consistent with the provisions of this Act, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 6. An application, or modification or amendment thereof, for financial assistance

under this Act shall be approved if the Secretary determines that—

(1) the application meets the requirements set forth in this Act;

(2) the approvable request for funds does not exceed 90 per centum of the cost of carrying out the program proposed in such application, unless the Secretary determines that special circumstances or other provisions of law warrant the waiver of this requirement;

(3) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the application to the applicant and to the Secretary; and

(4) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the applicant and to the Secretary. Non-Federal contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, or services.

ALLOCATION OF FUNDS

SEC. 7. (a) The amounts appropriated under section 3 of this Act for any fiscal year shall be allocated by the Secretary in such a manner that of such amounts—

(1) not less than 80 per centum shall be apportioned among the States in that proportion which the total number of unemployed persons in each such State bears to such total number of such persons, respectively, in the United States, but not less than $1,500,000 shall be apportioned to any State, except that not less than $1,500,000 shall be apportioned among the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(2) the remainder shall be available as the Secretary deems appropriate to carry out the purposes of this Act.

(b) The amount apportioned to each State under clause (1) of subsection (a) shall be apportioned among areas within each such State in that proportion which the total number of unemployed persons in each such area bears to such total number of such persons, respectively, in that State.

(c) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments required by subsections (a)(1) and (b) of this section.

SPECIAL PROVISIONS

SEC. 8. (a) The Secretary shall not provide financial assistance for any program or activity under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed, and (D) will not substitute public service jobs for existing federally assisted jobs;

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(3) all persons employed in public service jobs under this Act will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(4) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such program or activity;

(5) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants; and

(6) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Consistent with the provisions of this Act, the Secretary shall make financial assistance under this Act available in such a manner that, to the extent practicable, public service employment opportunities will be available on an equitable basis in accordance with the purposes of this Act among significant segments of the population of unemployed persons, giving consideration to the relative numbers of unemployed persons in each such segment.

(c) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this Act, such organization shall be notified and afforded a reasonable period of time in which to make comments to the applicant and to the Secretary.

(d) For programs which provide work and training related to physical improvements, special consideration shall be given to those improvements which will be substantially used by low-income persons and families or which will contribute substantially to amenities or facilities in urban or rural areas having high concentrations or proportions of low-income persons and families.

(e) The Secretary shall prescribe regulations to assure that programs under this Act have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

(f) 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 or by way of reimbursement, or otherwise allocate or expand funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments.

(g) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(h) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

DEFINITIONS

SEC. 9. (a) As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor;

(2) "State" means the several States and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "public service" includes, but is not limited to, work in such fields as environmental quality, health care, housing and neighborhood improvements, education, public safety, crime prevention and control, correctional and rehabilitation programs, transportation, recreation, maintenance of parks, streets, and other public facilities, rural development, conservation, beautification, and other fields of human betterment and community improvement;

(4) "unemployed persons" means—

(A) persons who are without jobs and who want and are available for work; and

(B) adults who or whose families receive money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed.

NATIONAL COUNCIL OF MANPOWER ADVISERS

SEC. 10. (a) The President, in consultation with the Secretary of Labor, the Secretary of Health, Education, and Welfare, and the Director of the Office of Economic Opportunity, shall appoint a National Council of Manpower Advisers which shall consist of at least thirteen but not more than seventeen members and shall be composed of persons representative of labor, management, agriculture, public and private education, vocational education, vocational rehabilitation, manpower programs, and economic opportunity programs. From the members appointed to such Council, the President shall designate a Chairman. Members shall be appointed for terms of three years except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only. Such Committee shall hold not less than four meetings during each calendar year.

(b) The National Council of Manpower Advisers shall

(1) identify the manpower goals and needs of the Nation and assess the extent to which educational, vocational education, institutional training, vocational rehabilitation, manpower, economic opportunity, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

(2) review the administration and operation of the programs referred to in clause (1) and advise the Secretary of Labor, the Secretary of Health, Education, and Welfare, and the Director of the Office of Economic Opportunity and other appropriate officials as to the carrying out of their duties under this Act and related Acts;

(3) develop an early warning system and standby capability, to be administered by the

Secretary of Labor, that will assure a timely and adequate response to major economic dislocations arising from changing markets, rapid technological change, plant shutdowns, or business failure;

(4) conduct independent evaluations of programs carried out under this and related Acts and publish and distribute the results thereof; and

(5) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of such programs including the programs authorized under this and related Acts.

(c) The National Council of Manpower Advisers shall make an annual report, and such other reports as it deems appropriate on its findings, recommendations, and activities to the Congress and to the President. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such reports and activities of the National Council of Manpower Advisers.

(d) The National Council of Manpower Advisers may accept and employ or dispose of gifts or bequests, either for carrying out specific programs or for its general activities or for such responsibilities as it may be assigned in furtherance of subsection (b) of this section.

(e) Appointed members of the National Council of Manpower Advisers shall be paid compensation at a rate of up to the per diem equivalent of the rate for GS–18 when engaged in the work of the National Council of Manpower Advisers, including traveltime, 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.

(f) The National Council of Manpower Advisers is authorized, without regard to the civil service laws, to engage such technical assistance as may be required to carry out its functions; to obtain the services of such full-time professional, technical, and clerical personnel as may be required in the performance of its duties, and to contract for such assistance as may be necessary.

(g) For the purposes of this section, funds may be reserved from the sums appropriated to carry out this Act, as directed by the Director of the Office of Management and Budget.

By Mr. RIBICOFF (for himself, Mr. JAVITS, Mr. PERCY, Mr. MAGNUSON, Mr. Moss, and Mr. COOK):

S. 707. A bill to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Referred, by unanimous consent, jointly and simultaneously, to the Committees on Commerce and Government Operations, with the proviso that, when one committee reports the bill, the other will have 45 days in which to report or the other committee will be deemed discharged from the further consideration of the bill.

CONSUMER PROTECTION AGENCY

Mr. RIBICOFF. Mr. President, I introduce for appropriate reference the Consumer Protection Organization Act of 1973.

I ask unanimous consent that this bill be referred jointly and simultaneously to the Committee on Government Operations and the Committee on Commerce, that following the reporting of the bill by either committee the other committee shall have 45 calendar days thereafter to report the bill, that following such 45 days the committee not reporting the bill shall be considered to have discharged the bill, and that it be placed on the Senate Calendar of Business.

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

Mr. RIBICOFF. Mr. President, Senators JAVITS, PERCY, MAGNUSON, Moss, and COOK join me as original cosponsors of this important, bipartisan legislation.

The distinguished majority leader has placed this bill on his list of priority legislation for the 93d Congress.

The history of this bill is well known. In 1970, the Senate passed a similar version 74 to 4, but the House did not act upon it. In 1971, the House passed a bill which in many respects improved on the legislation which expired at the end of the 91st Congress. And last year, the Government Operations Committee overwhelmingly approved a bill with still further refinements. A filibuster in the final days of the session prevented final Senate action, but the votes which were taken clearly showed that a large majority of the Senate favored the bill. This year we hope for early action so that the Congress will have ample time for full consideration and final passage.

The bill which I introduce is essentially the same as S. 3970, on which action was not completed last year. In brief summary, it would establish a Council of Consumer Advisers in the Executive Office of the President, and an independent Consumer Protection Agency. Together, they will provide what is now lacking in our consumer protection efforts—effective program coordination and policy development, a vigorous advocate to represent the consumer interest in the regulatory process, and support for State and local consumer protection programs.

The need for a Consumer Protection Agency is now widely accepted. Government regulatory agencies respond to the arguments of well-organized and well-financed interest groups which have the resources to employ effective advocates. There is nothing improper in this. However, consumer interests are neither well organized nor well financed. Consequently, there has been little effective consumer advocacy, and regulatory agencies with a responsibility to protect consumer interests have often been unresponsive to consumer needs. We have seen this happen in numerous instances.

The Department of Agriculture has failed to respond adequately to repeated GAO reports citing unsanitary conditions in meat and poultry processing plants and inadequate inspection programs for both domestic and imported meat. Consumers have no assurance that the meat they buy is clean and wholesome.

The CAB recently granted an air fare increase and has proposed the abolishment of youth and family fares, thus making air transportation more expensive for millions of Americans. This was done after the CAB unilaterally abolished its own inhouse consumer council.

For over 2 years the FDA and the Department of Agriculture have allowed MGA—melengestrol acetate—a potential cancer-causing animal drug, to be fed to food animals without any inspection program at all for the detection of its residues in meat.

For too long, consumers have suffered from inadequate enforcement of legislation enacted to protect their interests. Infants have strangled in their cribs because the Government agency with jurisdiction over product safety has neglected its responsibility to act. Children have died and been disfigured by burns from flammable garments because the Government agency assigned to set standards for flammable fabrics had not done so. Young adults have been paralyzed for life by vaccination because the Government agency assigned to assure the safety of vaccines failed to enforce its own regulations.

These and other Government actions have led increasing numbers of citizens to feel that Government is not responsive to their interests. In a society where Government derives its just powers from the consent of the governed, it is an ominous sign that citizens feel their Government is unresponsive to the interests of the people.

This legislation does nothing to abridge the rights of any person or organization to make its case before Federal agencies. I believe it is important to preserve access to Government agencies for all persons affected by governmental action. This legislation honors that principle. The bill is carefully drafted to advance the consumer interest without interfering in legitimate business conduct. The Agency will fit smoothly into the Federal administrative process.

It is time for the Senate to carry out the will of a majority of its Members and for the Congress to respond to the interests of consumers. It is time for us to act to make our Government more responsive to the desires of the American people. I hope and expect the Congress to give early approval to this bill.

THE "POCKETBOOK" ISSUE OF CONSUMERISM

Mr. JAVITS. Mr. President, I am joining once again with my colleagues, Senators RIBICOFF and PERCY, in cosponsoring the Consumer Protection Organization Act of 1973. I am very pleased that Senator MAGNUSON, the distinguished chairman of the Senate Commerce Committee, and Senator Moss, the distinguished chairman of the Consumer Subcommittee have joined us as original cosponsors of this important bill. Their assistance will be of inestimable value as we consider the bill on the Senate.

When I first came to Congress almost 25 years ago, "consumerism" as a national issue barely existed in the public mind. As our American economy grew more diverse and dynamic, there evolved a concern on the part of consumers and then a determination to get better products, better service, fairer interest rates, and credit terms, and a high standard of product safety.

The consumer movement continued to grow and make itself visible and articulate because more and more families properly regarded consumerism as a pocketbook issue—one which deals with their buying power and their right to a fair return for the hard-earned dollars which they invest in the hundreds of thousands of new and more sophisticated products which annually flood the American market.

We are all consumers. Together we represent the largest economic interest in the country. Collectively, there is a significant impact upon us by almost every public and private sector economic decision. Two-thirds of all spending in the economy is by consumers. Nevertheless, American consumers are not now sufficiently represented in the department. Agencies where major decisions relating to consumers interests are made.

In the bill being introduced today we have sought three general objectives in seeking to remedy the problems and legitmate grievances which our national revolution in marketing has created: first, the broader and more effective consideration of business practices as they relate to consumers; second, more effective penalties and remedies for violation of these regulations; and third, expanded consumer protection initiatives in various Federal agencies and more aggressive advocacy of consumer interests.

We have had some success in Congress in recent years with passage of important consumer legislation, including the Consumer Credit Protection Act and the truth-in-packaging law.

On other fronts there have also been important advances. Consumer protection offices and departments have been established in the White House and in many States and localities, including an excellent program under the attorney general of New York. Also, of course, the private action of consumer groups and concerned citizens, particularly the organization of Ralph Nader, have had a major impact in helping to marshal support on the side of the consumer.

I was profoundly disappointed that during the last session of Congress the Senate failed to pass the landmark consumer bill which we introduce today—the Consumer Protection Organization Act. The keystone provision of the bill—the creation of an independent Consumer Protection Agency—was approved in the Senate in the 91st Congress by a margin of 74 to 4.

The bill represents an effort by the Federal Government to organize better itself so that the consumers' interests—like those of business, agriculture, labor and so forth—are given due consideration throughout the Government's regulatory network. It had as its primary objective the improvement of the Government's consumer protection structure.

Too often—for one reason or the other—the agencies and departments of government have failed to consider adequately, in the decisionmaking processes, the needs and concerns of the consumer or to insure that the consumers' problems—vis-a-vis the problems of other private interests—were given the attention they deserved.

By providing certain structural changes, especially by the institutionalization of a consumer agency within the federal system, this bill will help the Government to correct this serious deficiency. It will establish a Consumer Protection Agency—CPA—to advocate the consumer interests before all the other departments and agencies of Government and in the Federal courts.

It will provide for grants to State and local governments and nonprofit organizations to assist them with consumer protection programs and it will establish a three-member Council of Consumer Advisers in the White House to help coordinate and reinforce the ongoing consumer efforts in the executive branch.

The CPA will not be a superagency of Government. As to its consumers' role before other agencies, it will have procedural rights, and that is all.

I appreciate that many in the business community and even some among the Federal agencies are concerned that the CPA in its advocate's role would disrupt the orderly processes of government and unduly interfere with legitimate business relationships. This is not the design, the intention, or the effect of this legislation. This bill is balanced and responsible legislation. It will offer the consumer a strong voice in his Federal Government's activities.

I and other Senators have worked for over 3 years to develop and improve this legislation. We hope to develop the case for this bill in joint hearings of the Government Operations and Commerce Committees. The important issues involved will once again come before the Senate.

The consumer's central civil right is to get his money's worth.

He has many rights and many remedies in theory. But the best place to assert them is generically in the departments and agencies.

Our bill provides that the CPA will be headed by a bipartisan three-member Commission and that the Chairman of the Commission will be the Administrator of the Agency. The Commission is vested with the authorities and powers of the Agency, but the Administrator is charged with the full responsibility of carrying on the functions and day-to-day operations.

The CPA would not be the sole repository of knowing what is best for the consumer. It is not to be thought of by the people of the United States or the other agencies as the one and only consumer voice but it is to be charged with presenting and working for consumer positions before other agencies.

It therefore is of paramount importance in my opinion that decisionmaking agencies in the Federal establishment be ever vigilant of competing consumer interests. They must keep their doors open to other consumer groups, who must be encouraged to present their own views, and even to solicit their opinions.

To vest in this new Agency any less authority to intervene and participate before the other agencies than our bill provides—that is, to provide amicus standing only—would be like giving someone a new car on the condition he is not allowed to buy gas—the car just will not go.

There are approximately 50 Federal agencies and bureaus performing some 200 or 300 functions affecting the consumer. By utilizing both the Council and the CPA created in our bill, we would create a new means to police the departments and agencies to insure that they are doing their job for the American consumer.

That assurance is long overdue for our people.

Mr. MOSS. Mr. President, I am pleased to cosponsor the bill creating the Consumer Protection Agency.

This legislation is not new to the Senate. In the 91st Congress, legislation similar to this bill was considered and favorably reported by both the Senate Commerce Committee and the Committee on Government Operations; that bill then passed the Senate by a vote of 74 to 4. The bill was badly needed then, and it is needed even more now.

This legislation would accomplish a number of important ends. It would coordinate the consumer protection activities of the Federal Government, conduct surveys and research, and disseminate information.

The most important functions of this agency, however, are its advocacy functions. There must be someone present to speak up for the consumer and present a balanced picture for those agencies of Government which almost daily make decision affecting the lives of all American consumers. From investigations of various pieces of consumer legislation undertaken in the last several Congresses by the Committee on Commerce, we have learned that the energy and effectiveness of consumer protection regulation diminishes in direct proportion to the absence of vigorous external surveillance and prodding. No single fact of bureaucratic life emerges with more striking clarity from legislative oversight activities of the Senate Commerce Committee. Creation of this new advocacy Agency will assist Congress in overseeing legislation and maintaining the vitality of the legislation.

But many legislative initiatives vest broad discretionary powers in the Government agencies. In view of the typically one-sided representation in front of most Government agencies, it is hardly surprising that a pattern of agency loss of mission and purpose has been established. This phenomenon results from the fact that in the end, the agencies every day find themselves facing only one concerned constituency—the very industry they are supposed to be regulating. The result is a subversion of the mandate of Congress and in effect an abdication of the congressional role.

Mr. President, there must be someone present to speak for the consumer and to present a balanced picture before the agencies dealing with issues affecting consumers. That is one of the primary functions of the Consumer Protection Agency and that is why I am acting as cosponsor of this legislation and urging Senate approval of it.

Mr. PERCY. Mr. President, I am most pleased to join again with Senators

RIBICOFF and JAVITS in reintroducing this vitally important consumer protection agency legislation in the 93d Congress, and welcome the additional support and sponsorship by Senator WARREN MAGNUSON, chairman of the Commerce Committee, Senator FRANK MOSS, chairman of the Consumer Subcommittee of that panel, to which the measure will be referred, and Senator MARLOW W. COOK, the ranking Republican on that subcommittee.

Each one of these sponsors has, in their role as Senators, brought examples of laxity within Government agencies and impervious behavior by some businesses to the light of public scrutiny. And, in so many cases, a bad situation for consumers has been corrected as a result.

It is also gratifying to note that the joint leadership of both Houses has indicated that this bill will be given priority attention just as soon as it is reported to the floor by the relevant committees.

The bill, as introduced today, is substantially the same as that which was accorded an untimely death last year because of the unwillingness of a few Members of this body to permit the whole Senate to deal with the bill on its merits as it did in December of 1970 in approving basically the same measure by a margin of 74 to 4.

Notwithstanding the filibuster, the Senate overwhelmingly beat back an attempt last year to strip the agency of its essential authority to participate as a full party in interest in the proceedings of other agencies of Government and courts whose deliberations affect substantial consumer concerns. Moreover, the Senate on three occasions voted by a substantial majority to cut off the filibuster but failed to achieve cloture by a mere four votes the first time and three on each of the two following occasions.

The bill we are introducing today says basically "no more" to certain recurring examples of bureaucratic arrogance and corporate unconcern for the public. The bill is designed to reinforce quality in goods and services, fairness in merchandising and promotion, and integrity in in the marketplace. As I stated in a speech before the Consumer Federation of America's Consumer Assembly last week, the measure reflects a yearning on behalf of more than 200 million Americans for an improved quality of life, for an America that works again, for an America that cares again, for people, products, and Government institutions that support the society rather than embitter it or tear it apart.

In my criticism of Federal agency performance in the consumer area, I have undoubtedly been most critical of the Food and Drug Administration because I place the highest priority on elemental health and safety. I personally feel that Commissioner Charles Edwards is one of the most dedicated servants in Government and that the record of the FDA under his direction has been without parallel in serving the American public.

But the FDA, with its mandate to protect public health and safety from needless risks associated with unsafe food, drugs, cosmetics, and consumer products, more than any other agency must be subject to the closest scrutiny.

Thus, for example, I have monitored that agency's performance and criticized it for secret agreements to permit the continued sale of leaded Christmas tree tinsel—which they have now halted—and for questionable delays in permitting potentially unsafe levels of hexachlorophene to remain in over-the-counter products—which I can also now say the agency no longer permits.

Where health and safety are concerned, there can be no good explanation for regulatory neglect or bungling. Thus, during last summer's Olympic telecast, the commercial for one company's product showed a double-edged blade 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 FTC, which has jurisdiction, decided to do nothing. The Bureau of Product Safety within FDA proudly announced that they had prevailed upon the company to correct the problem by including a message on the screen during the showing of the commercial warning: "Sharp edges—Don't try this at home." Now I ask my colleagues in this Chamber, what kind of solution is that? The hazard was especially a hazard to very young children, many not yet able to read. What good does it do to warn when the warning itself is going to have a minimal effect? Would it not be better to consider the safety implications in the first place; or when shown that a risk situation exists, to work on a meaningful—not cosmetic—solution?

A most serious matter involving the FDA of considerable concern to me at this moment involves the agency's persistent unwillingness, despite its recognition of the problem as a national tragedy and a clear mandate to do something about it, to set minimum safety standards for infant cribs. Back in June of 1970, the National Commission on Product Safety in its final report to the President and the Congress listed infant furniture as one of 16 unreasonable hazards found in and around the home. The report pointed to incidents of infant strangulations and deaths caused by too wide spacing of the slats of wooden cribs and cited statistics indicating that as many as 200 deaths a year may be due to crib design, many of those directly caused by negligent spacing. Clearly, it is cheaper to manufacture a crib with fewer slats because less lumber is needed, and some callous manufacturers are willing to risk tragic injury by indecently cutting corners.

Another fairly common problem associated with crib injuries involves the lack of standardized mattress and crib dimensions, permitting injury or death when an infant's head becomes lodged in the space between an ill-fitting mattress and the side or headboard of the crib.

Having reminded the FDA of these dangers in statements on the Senate floor last year and to the media, I received a letter back saying that a study was underway and that—notwithstanding FDA's own figures of 23 reported infant deaths from strangulation due to crib design actually reported to the agency in 1971—further action would have to await the completion and receipt of the report in August of 1973. As I wrote to Commissioner Edwards again 2 weeks ago, if those 23 reported deaths—the actual incidence is likely to be far greater—estimated at 200 by the National Commission on Product Safety—had instead been caused by a prescription drug, shrieks of horror would be heard around the country, and I am certain that the FDA would have taken immediate measures to remove the drug from the market.

But instead, we have a policy of permissiveness of the worst sort, which allows a few manufacturers to produce an unworthy and unsafe product sold to a trusting and unsuspecting public. This kind of irresponsible behavior by the few tarnishes the image of so many outstanding firms, places them in a competitive disadvantage, and, worse, causes parents to endure considerable anxiety wondering whether their child is adequately protected—and insufferable despair on awakening to find he was not. For just this one instance, of many, I can see no reason why there need be any more delay in promulgating a minimum standard for crib safety.

Had there been a CPA in existence to monitor this, I have no doubt that such a standard would already be in effect.

This is what the Consumer Protection Agency legislation is all about. But to make sure that we are not ourselves creating an institution of government which might disrupt the orderly processes of regulation and administration now being carried out by government or unduly interfere with responsible business practices, we have incorporated within this legislation what we believe to be very important and reasonable controls against abuse.

Mr. President, I ask unanimous consent to insert a reference paper at this point.

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

SAFEGUARDS IN CONSUMER PROTECTION AGENCY BILL

1. The CPA will have no regulatory authority. It will not be able to overrule, veto or impair any Federal agency's final determinations. The participation rights granted to the CPA are procedural only, not substantive, such that no authority granted to the CPA shall be construed as superseding, supplanting, or replacing the jurisdiction of any agency over any subject matter, nor deprive any agency of its responsibility to exercise its authority under law. Section 3(3) Declaration of Purpose

2. Limitation on CPA interventions: Authority to intervene as of right as a party is granted to the CPA in formal agency proceedings, but the Administrator must exercise discretion and avoid unnecessary involvement. He is to refrain from intervening as a party unless he determines that such extent of involvement is necessary to represent adequately the interests of consumers. Where submission of written briefs or other material is sufficient, or presentation of oral argument is sufficient, he is to exercise self-restraint and limit his involvement accordingly. Section 203(a)

3. Protection against disruption and delay of agency proceedings and activities: Upon

intervening, or participating in formal agency proceedings, the Administrator must comply with the host agency's statutes and rules of procedure governing the timing of his participation and the conduct of such proceeding (Section 203(a)). In participating in an informal agency activity, the Administrator must do so in an orderly manner and without undue delay. Section 203(b).

4. Protection against CPA intrusion in the private meetings and discussions between a Federal agency and a particular business firm: While the CPA may present orally or in writing relevant information and arguments (Section 203(b)(1)), it is not granted the right or authority to be present at any particular meeting or discussion, nor to monitor any phone conversations, between an agency and a company. Instead, it need only have full opportunity comparable to that of the company to present its views. CPA's participation, therefore, need not be simultaneous (and generally will not be) but need only occur within a reasonable time of any prior involvement by such company or at a time when it might reasonably have an input into a contemplated agency action. Section 203(b)(2).

5. Protection against misuse of a host agency's compulsory process: Where the CPA seeks to use an agency's subpoena authority for discovery purposes, the host agency retains discretion and control over such use. CPA's request must be: (i) relevant to the matter at issue; (ii) not unnecessarily burdensome to the person from whom the information is sought; and (iii) not such as would unduly interfere with the conduct of the host agency proceeding—all to be determined by the host agency, not the CPA. Section 203(e).

6. Protection against unfair advantage to CPA in requiring information from businesses: The compulsory information gathering authority of the CPA (Section 207(b)) may not be exercised to obtain information which: (i) is available as a matter of public record; (ii) can be obtained from another Federal agency; or (iii) is for use in connection with his intervention in any pending agency proceeding. (Section 207(b)(2)). The Administrator's request under Section 207 must relate to consumer health or safety, frauds or unconscionable conduct and be specific as to the purpose for which the information is intended. Moreover, the request must be relevant to that purpose and not unnecessarily burdensome to the person from whom the information is sought. The scope of the Section has been limited so as not to require the production of records, books, or documents, the appearance of witnesses, or the disclosure of information which would violate any relationship privileged according to law. Section 207(b)(1).

7. Protection against arbitrary, capricious or vindictive intervention by CPA: The determination by the CPA that a consumer interest may be substantially affected by the result of an agency proceeding will be subject to ultimate judicial review if there was prejudicial error involved. (Section 201 (e) (1) (B)). The Administrator is required explicitly and concisely to set forth in a public statement the interests of consumers he is representing in a particular agency or court proceeding.

8. Protection against unwarranted allegations in complaints from consumers against business, its products or services: Upon receipt of consumer complaints, CPA will as a matter of course promptly notify the company named, furnish it a copy of the complaint, and afford it a reasonable time in which to respond to the charge. Both the complaint and the company's response will be placed in the public file simultaneously, together with any comments or report from any Federal agency to which the complaint was referred for action. Frivolous, malicious and unsigned complaints will not be placed in the public file. Sections 206 (b) and (c).

9. Protection against access by CPA to all classified information and restricted data under the Atomic Energy Act. Section 207 (c)(1).

10. Protection against CPA access to internal policy recommendations: The CPA will have access to factual material developed by agencies but will have no right to have access to opinions expressed by agency personnel which are not in the nature of factual data. Section 207(c)(2).

11. Protection against CPA access to information concerning routine executive and administrative functions: Most internal agency documents dealing with the management of the agency need not be accessible to the CPA. This will protect the legitimate interests of federal agencies in managing their own affairs without interference. Section 207(c)(3).

12. Protection against CPA access to personnel and medical files and other files access to which would constitute an unwarranted invasion of personnel privacy: The CPA will not have a right to have access to these files, which should properly remain private in order to preserve important interests of confidentiality. Section 207(c)(4).

13. Protection against CPA access to information which any agency is expressly prohibited by law from disclosing to another federal agency: Where a statute of judicial decision has declared that an agency may not disclose information to another agency, this policy applies to the CPA, and denies the CPA the right to access to such information. Section 207(c)(5).

14. Protection against CPA access to income tax records: There is no authorization in this act to any federal agency to disclose the amount or source of income, profits, losses, expenditures, or any particular thereof, from any income return, or to permit CPA access to any such return. This will insure that records which are now treated as confidential by the IRS with respect to access by other federal agencies will be treated in the same manner with respect to the CPA. Section 207(d).

15. Protection against disclosure of confidential information relating to business practices in the files of another agency: The CPA has access to, and can copy agency files, but cannot disclose to the public any information which the host agency has exempted from disclosure or is otherwise exempted by law. Section 208(b).

16. Protection for business trade secrets that may come into CPA's possession: Trade secrets and other confidential business information may not be disclosed under criminal penalty of law except if necessary to protect public health and safety, or to courts, committees of Congress, and other concerned federal agencies in a manner designed to preserve confidentiality. Section 208(c).

17. Protections against disclosure to the public of false or misleading information regarding a business: CPA disclosures may not be inaccurate, misleading or incomplete. Otherwise, CPA will be required promptly to issue a retraction, to take other appropriate measures to correct any error, or to release significant additional information affecting the accuracy of information previously released. Section 208(d).

18. Protection against "surprise" disclosures to the public of information likely to injure the reputation or good will of a business: CPA is required, as a matter of course, to give prior notice to such company and afford an opportunity to comment, unless public health and safety would be imperiled by such action. Section 208(d). Injunctive relief to a company which might be damaged is provided for.

19. Protections against unfair comparisons of the products or services of a business: In disclosing information, CPA: (i) must make clear that all products of a competitive nature have not been compared, if such is the case; (ii) must make clear that there is no intent or purpose to rate products compared over those not compared, not to imply that those compared are superior or preferable in quality to those not compared; and (iii) must not subjectively indicate that one product is a better buy than another. Section 208(e).

Mr. PERCY. Mr. President, with the inclusion of these safeguards from the outset, I look forward to increased business support for this legislation in this session. We start with the encouragement and support of two outstanding firms within the business community, Montgomery Ward and Container Corporation of America—subsidiaries of Marcor, Inc. I am certain that as the days pass, the legislation will win the endorsement of many other farsighted and responsible businesses who are appalled, as I am, by certain instances of unconscionable conduct which only brings shame and disrepute to American industry as a whole and to the free enterprise system on which it is founded.

Mr. President, in connection with my earlier comments regarding FDA inaction on crib hazards, I wish to share with Senators the correspondence I have had with Commissioner Edwards. I therefore ask unanimous consent that his letter of November 1, 1972, be printed in its entirety at this point, followed by my own letter to him on January 12, 1973. I have not yet received a response to my letter.

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Rockville, Md., November 1, 1972.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: We join in your concern for infant deaths in cribs as expressed recently in the Congressional Record, on the Today Show, and in other public comments. We have been pursuing an active program which will lead to a mandatory regulation in this area. I should like to tell you what we have been doing.

Let me begin with a description of the problem at the time of the Product Safety Commission investigation. The Commission had highlighted the problem during hearing procedures. We understand that shortly thereafter the industry voluntarily agreed to manufacture cribs with a maximum spacing between slats of 3¼ inches— a spacing based upon medical opinion. We conducted a survey during April, May, and June of this year (Attachment A describes our field program) to determine the status of cribs then being produced. Data collected from 14 firms included basic measurements of cribs and playpens: Slat spacing, interior length and width, and rail and mattress support heights at various positions. This survey also included descriptions of release mechanisms and other hardware being used.

Measurements taken of 97 full-sized wood slatted cribs (representing over 300 styles available on the retail market and near 100 percent of production showed that 82 (84.5 percent) had slat spacing of 3¼ inches or less. None was greater than 3½ inches.

In relation to fatalities, our search of coroners' reports and other data sources has disclosed that 23 deaths of infants may have

occurred during 1971 (the latest year for which such data are available) from strangulation because of crib design (exclusive of possible mattress misdesign). Although information on the slat spacing of the cribs involved in these deaths is not available, we are of the opinion that a strangulation with slats 3¼ inch or less spacing is highly improbable. Anthropometric studies have been woefully inadequate as a basis for estimating meaningful body dimensions of infants. (To overcome this inadequacy, we have entered into a major contractual agreement with the Medical School of the University of Michigan to determine scientifically more than forty basic body measurements of several thousand children from throughout the Nation.)

The 200-per-year crib deaths frequently quoted resulted from testimony before the National Commission on Product Safety. It must be noted this figure was an extrapolation from the ten strangulations in twelve years in Dade County, Florida (page 51, Vol. 2, hearings NCPS). Only two of these deaths could in any way be related to crib slat spacing. You will agree, I am confident, that the statistical reliability of an extrapolation such as this must be questioned. Nevertheless, we certainly feel that any accidental death of a child is a national tragedy.

Investigations were made of some twelve cases occurring prior to 1971 (see Attachment B). Four of these were fatalities; one was a near strangulation. Two of the five were slat-space related. In both cases slat spacing was greater than 3¼ inches.

Attachment C presents summaries of 29 crib accidents reported to our Bureau of Product Safety between June 1971 and July 1972. One of these accidents caused the death of the infant—slat spacing was in no way involved.

Our efforts are devoted to the development and promulgation of a meaningful mandatory standard covering design and assembly characteristics of cribs The true aim will be to overcome slat spacing and other identifiable hazards in cribs, including specifically those disclosed during the investigations shown on Attachments B and C. Requirements will include:

1. A maximum allowable distance between slats to eliminate the risk of strangulation.

2. A strength and durability requirement for all structural and design components, including the crib floor of springs, latching devices, slats, and rails.

3. A requirement to insure the integrity and durability of the locking devices under normal use and reasonably foreseeable misuse (e.g., accidental release by crawling infants or other children outside the crib).

4. Requirements to eliminate the puncture or laceration potential of all components (e.g., the sharp edges of exposed brackets or other hardware).

5. Requirements for crib floor adjustment to permit accommodation of the mattress, regardless of its thickness, so that a child cannot be exposed to hazard because the top of the mattress is too high in relation to the top of the siderail.

6. The standardization of mattress and crib dimensions.

The Food and Drug Administration will move rapidly to develop and publish a proposed regulation on slat spacing just as soon as the appropriate minimum spacing dimension can be determined from the anthropometric studies. In the meantime, we are moving forward in developing a broad regulation covering all other mechanical hazards. Our concern for the health and welfare of children and our full utilization of the authority granted by the Congress are matters in which you may have the greatest confidence.

Sincerely yours,

CHARLES C. EDWARDS, M.D.,
Commissioner of Food and Drugs.

JANUARY 12, 1973.

Dr. CHARLES C. EDWARDS,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR COMMISSIONER EDWARDS: As you well know, I have been especially concerned about the incidence of infant deaths in cribs due to hazardous design of the crib and its components. I have your letter of November 1 to me on this subject responding to my comments on the "Today" show the month earlier and to several statements I have made on the floor of the Senate in this connection. Your letter and subsequent information that has come to me concerning it confirms my view that the Food and Drug Administration has been woefully remiss in refusing to take more immediate action to assure the safety of infants from crib defects.

My original concern related to the incidence of infant strangulations and deaths caused by too wide spacing of the slats of wooden cribs. Obviously it's cheaper to build a crib with fewer slats because less lumber is required, and some callous manufacturers are willing to risk tragic injury by indecently cutting corners rather than assure a safe, quality product. The National Commission on Product Safety in its Report to the President and the Congress in June 1970 listed infant furniture as one of the sixteen unreasonable hazards found in and around the home. The chief focus of its discussion centered upon the spacing of slats, citing statistics indicating that as many as 200 deaths a year may be due to crib design, many of those directly caused by negligent spacing.

In your letter back to me you question the validity of the Commission's statistics, yet nevertheless confirm that there are numerous infant deaths each year attributable to the spacing problem, and go on to refer to this as a "national tragedy." I would say "a national disgrace."

In your letter and attachments, it is clear that slat spacing is a problem and, even from the investigations taken by your own staff, approximately 15% of cribs that were subject to surveillance by FDA inspectors failed to meet even the voluntary industry standard of 3¼ inch spacing. My own more casual observation of what's being sold, particularly in urban ghetto areas of Chicago, Cairo, East St. Louis, and here in the District of Columbia, leads me to believe that the percentage of hazardous cribs on the market is considerably higher than that found by your investigators.

Your letter concludes with what appears to be an assurance that "the Food and Drug Administration will move rapidly to develop and publish a proposed regulation on slat spacing" but then tags on a proviso "just as soon as the appropriate minimum spacing dimension can be determined from anthropometric studies." I take it the studies you allude to is a reference back to the contractural agreement the FDA has with the Medical School of the University of Michigan, cited earlier in your letter. But a check with your staff indicated that study will not be completed until August of 1973. As you and I know, studies are often delayed in receipt, and I am sure several months will be needed for the FDA to "consider and review" the study as submitted. Several more months are then likely to pass before FDA comes up with a proposed regulation which is likely to be subject to a period of public comment and review consistent with the Administrative Procedure Act prior to promulgation of a final standard. If the past is any guide, I would guess that the final regulation will permit manufacturers several more months or even years in which to comply with the new standard.

What I'm getting to is why do we have to wait? Why do we need more manufacturing negligence and tragic injury and death when we are all in agreement as to the nature of the problem and the cause of it? Should your anthropometric studies ultimately indicate that an interim Federal standard of 3¼ inch is not sufficient, then a more rigid standard could be promulgated later, but in the meantime let us at least assure the American public that a *minimum* standard is being met by 100%—not merely 85% or less—of American manufacturers.

It would be preferable, of course, to have a more comprehensive standard covering other facets of crib safety, including:

A strength and durability requirement for all structural and design components;

Elimination of sharp edges and protrusions;

Assurance of the integrity and durability of latching devices; and

Standardization of mattress and crib dimensions.

I don't really see how any of those factors need necessarily depend upon the anthropometric studies that you have under way. Again, an interim standard could probably be promulgated almost immediately. Particularly in view of your attachment describing crib injuries reported to the RDA. I believe the last factor dealing with standardized mattress and crib dimensions might well prevent most of the instances where an infant suffers injury or death as a result of his head becoming lodged in the space between an ill-fitting mattress and the side or headboard of the crib.

I urge you personally to review this situation. Notwithstanding the fact that crib design will be a matter soon to be taken over by the independent Consumer Product Safety Commission, I do not believe that this is any reason for delaying action in the interest of safety where commonsense dictates that action is long overdue. I need hardly remind you, if the 1971 toll of 23 reported infant deaths from strangulation due to crib design had instead been caused by a prescription drug, shrieks of horror would be heard around the country, and I am certain that the FDA would have taken immediate measures to remove the drug from the market. But that was not the case and instead we have a policy of permissiveness of the worst sort.

As you well know, Commissioner, and as I have stated on many occasions in public and private, I believe the record of the FDA in health and safety matters under your direction has been singularly outstanding, indeed unequaled. That fact makes it all the more difficult for me to understand why we must continue to allow a few manufacturers to produce an unworthy and unsafe product. This kind of irresponsible behavior by the few tarnishes the image of so many outstanding firms, places them at a competitive disadvantage, and, worse, causes parents to endure heightened anxiety wondering whether their child is adequately protected . . . and insufferable despair on awakening to find he was not.

Sincerely yours,

CHARLES H. PERCY,
U.S. Senator.

By Mr. STEVENSON:

S. 708. A bill to amend the Gun Control Act of 1968. Referred by unanimous consent to the Committee on the Judiciary.

Mr. STEVENSON. Mr. President, I was pleased to hear that the Committee on the Judiciary will turn its attention directly to crime control measures, including measures to reduce the easy accessibility in the Nation to guns.

I am today introducing a bill designed to reduce handgun violence in the United States, the Federal Handgun Licensing and Registration Act of 1973. I send the

bill to the desk and ask unanimous consent that it be referred to the Committee on the Judiciary.

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

Mr. STEVENSON. Mr. President, another man has fallen victim to handgun violence, this time one of our own. I share with all Members of the Senate the shock and grief which accompanied the terrible news of the brutal assault upon Senator JOHN STENNIS.

This week it was Senator STENNIS. Last May it was Governor George Wallace, gunned down in nearby Maryland by a man armed with a snub-nosed .38. In 1968, it was Senator Robert F. Kennedy, killed at short range by a man armed with a handgun.

What happened to Senator STENNIS and Governor Wallace and Senator Robert Kennedy could happen to any citizen—and frequently does. Those least prominent, and most poor, are in fact the most frequent victims of assault by gun. Each day Americans are killed, wounded, or maimed in handgun assaults. In 1971 over 17,600 Americans were murdered, and the murder rate for the first 9 months of 1972 was up another 5 percent over the previous year. Sixty-five percent of these homicides involved firearms, and over 78 percent of homicides involving firearms in fact involve handguns—and this despite the fact that only about 27 percent of the Nation's firearms are handguns.

The law enforcement official in the line of duty is a prime target for the pistol-wielding offender. In the decade 1961 through 1970, 633 policemen were murdered in the Nation—most of them with handguns. In 1971 alone 126 policemen were murdered in the line of duty. Last year the number dropped slightly to 112, but 108 of these 112 were killed with firearms and an incredible 70 percent of them with handguns.

There is a fear of crime in America, and this fear is first and foremost a fear of violence. And violence in America is, first and foremost, violence by gun: violence against citizens and violence against policemen in the performance of their duty.

And the villain in this grisly pageant of crime and death in America is the handgun—the pistol—too easily obtained, too easily concealed, too easily used to coerce, maim, and kill.

Nationally, the crime gun is the handgun. In the words of the Eisenhower Violence Commission staff:

> The handgun is the dominant firearm used in homicides. When firearms are involved in an assault and robbery . . . the handgun is almost invariably the weapon.

It is time for Congress to act. There are proposals to pass legislation providing compensation for the victims of crime and for the widows of police officers killed in the line of duty. Worthwhile as these efforts may be—and I fully support them—it is not enough to compensate the victims of crime. It is not enough to compensate the widows of police officers killed in the line of duty.

I suggest to the Congress that the time has come to stand up to the gun lobby.

It is time to save lives.

It is time to stem the bloodshed.

It is time we took the crime guns, the handguns, away from those who are most likely to misuse them.

I am, therefore, introducing a bill to control the continuing spread of handgun violence.

The provisions of the bill are clear and simple:

The bill applies to handguns only—the chief instrument of crime and violence in America.

The bill requires every handgun to be registered and every handgun owner to obtain a Federal license. The bill would in no way interfere with State laws and regulations concerning gun licensing and ownership. It applies to working pistols only—not antiques or replicas.

The program would be administered by the Secretary of the Treasury. Those who have a collection of handguns would pay only one registration fee, and registration and licensing fees would be minimal. And, though the bill requires that sportsmen and target shooters obtain a license, it does not threaten their ownership of pistols. I have been a gun collector, a target shooter, and a hunter for as long as I can remember. This bill is a price which gun owners, like myself, would glady pay to stem crime and violence.

The bill requires that a handgun owner be at least 18 years of age; that he be free of alcoholism, drug addiction, or mental disease.

It requires that a licensee be free of any criminal conviction carrying more than 1 year's imprisonment; that he not be a fugitive from justice; that he be of good moral character; and that he be qualified to own a gun under all applicable Federal, State, and local laws.

To apply for a license, the individual would fill out a simple application form, sign a statement to the effect that he may lawfully possess handguns and handgun ammunition under the laws of the United States and of the State and political subdivision of his residence, and submit a set of his fingerprints and a photograph.

The bill does not ban or confiscate any handguns, except "Saturday night specials." The bill does contain a provision granting compensation to lawful owners of handguns who voluntarily relinquish them.

The bill sets up penalties for violators: imprisonment not to exceed 5 years; a fine of $5,000; or both.

The bill is a workable and practical answer to the plague of handgun violence. It recognizes the legitimate uses for handguns, but it also recognizes that you do not shoot ducks with a snub-nosed .38.

With all respect for Senator BAYH, who has labored mightily in this cause, the "Saturday night special" bill which passed the Senate last year would not reduce the plague of handgun violence. That bill merely prohibits the future sale of certain small handguns by licensed dealers, manufacturers, and importers. It would not prevent anyone who presently owns a "Saturday night special" from owning or even selling it. The "Saturday night special" bill does nothing about the vast store of existing "Saturday night specials." And even if it did effectively prohibit "Saturday night specials," that would not be enough. The Smith & Wesson would begin to replace the cheap import, and the victim might begin to take his punishment at the end of a 6-inch barrel instead of a 4-inch barrel. That is not enough. I regret to say that the "Saturday night special" bill gives us only a cruel illusion of crime control not its reality.

To those who believe the slogan that criminal—not handguns—commit crimes, this can be said. Criminals cause crimes—and handguns are the principal instruments of the death and injury they cause. Other instruments of possible injury which have legitimate uses—cars, even dogs—are licensed. There is no instrument more sinister than the lethal, concealable pistol. If a gun is not used in a crime, the chance of death is five times less. Any policeman knows that a suspect who must rely upon a knife, a bottle or his fists is not so bold and so dangerous as one armed with a gun.

There are those who point out that gun control laws in the past have been less than effective. They are right. Our present gun laws are a patchwork of 20,000 laws—some ancient, some unenforced or unenforceable, all too narrow and too inconsistent ot be nationally effective. But this is an argument for, not against, effective national laws.

The evidence is strong that in cities—such as Boston and New York—where gun control is strict, the use of guns in homicides is less:

More than 40 percent less than the national average in New York.

Thirty percent less in Boston.

And the evidence is clear that in regions where guns are most numerous—the South and the West—violent crimes involving guns are at their worst.

As it stands now, no State or locality can effectively control the ownership of handguns. Chicago, for example, has a strict ordinance providing for the registration of handguns. But all an individual prohibited from ownership need do to obtain a handgun is step beyond the city's jurisdiction. This bill would require a Federal license before the individual could acquire a handgun anywhere in the Nation—and that license would not be issued if the individual was not entitled to own a handgun under the laws of his State and locality. It is remarkable that local controls have been effective at all, considering the ease with which they are evaded. This bill, if enacted, would for the first time make it possible for State and local authorities to control effectively the ownership of handguns. And the Federal Government would itself be acting to keep handguns out of the hands of those most likely to misuse them.

Law-abiding gunowners, like myself, accept gladly the minor inconveniences of handgun licensing and registration—in order to control the spread of criminal violence in America.

This bill is a compromise between the extremes of those who propose to outlaw all handguns and those on the other

hand who resist any effort to control the possession and ownership of any guns. It will be said, as it always is, that only the law-abiding will register their guns. But that is the point of the bill. Those unable or unwilling to register will be subject to prosecution. They can be disarmed. My bill will please neither extreme. By the same token it ought to offer some common point, a compromise if you will, to all who want to do something to stem the rising tide of violence. As it is now, we face a standoff. The alternative to this bill may be nothing—and more senseless, needless bloodshed.

The bill recognizes that many crimes are committed in moments of passion, and that violence is made possible by the easy accessibility of handguns. It offers law enforcement authorities a chance to trace handguns used in the commission of crimes to the offenders. It offers a means of cutting back on the accidental injuries, as well as crime, caused by the easy accessibility to handguns, especially unsafe and unsuitable handguns. States and localities would be able for the first time to adopt effective handgun controls.

The public dialog is divided between the extremes: between charges of permissiveness on the one hand and of repression on the other; between rhetoric which breeds fear and rhetoric which breeds passivity; between those who believe we are a soft society and those who believe we are a sick society.

None of them, it seems to me, is right. I am not ready to admit that we are, and must be, in urban America, a gun-toting society—some vestige of an imaginary wild west past glorified in the movies and on television screens.

I am not ready to admit either that we are a sick society which nurtures violence; that we are more violent or bloodthirsty than other men in other lands. The evidence does not prove that we are innately violent; but it is clear that we have failed to keep guns away from violent men.

It is time to find some common ground.

It is time now to correct the ancient failure.

It is time to erase, as far as we are able, the fear that handguns spread.

It is time to answer the pleas of the people and law enforcement officials for handgun control.

It is time to protect the lives—of citizens, of policemen—that handguns endanger.

In doing so, we will not damage any liberty which free and lawful men enjoy.

We will, instead, honor the intention of those whose purpose when they founded our Nation was "to form a more perfect Union; to establish justice; to ensure domestic tranquility".

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

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

S. 708

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

SEC. 2. The Congress hereby finds and declares—

(a) that handguns are the principal instruments of violent crime in the United States and are concealable weapons designed for the primary purpose of killing and maiming human beings; and

(b) that such legitimate purposes for handgun ownership as exist will not be impeded by a national system of handgun registration and handgun owner licensing; and

(c) that the crimes of violence and the accidental injury caused by handguns threaten the peace and domestic tranquility of the citizens of the United States and the security and general welfare of this Nation and its people.

SEC. 3. Section 921(a) of title 18, United States Code, is amended by inserting after paragraph (20) the following:

"(21) The term 'handgun' means a firearm designed to be fired by the use of a single hand. The term also includes a combination of parts in the possession or under the control of a person from which a handgun can be assembled. The term does not include antique firearms.

"(22) The term 'handgun model' means a handgun of a particular design, specification, and designation."

SEC. 4. Section 922(b) of such title 18 is amended—

(a) by striking out at the end of paragraph (4) thereof the word "and";

(b) by striking out at the end of paragraph (5) thereof the period and inserting in lieu thereof a semicolon;

(c) by adding after paragraph (5) thereof the following new paragraph:

"(6) any handgun model unless such handgun model has been approved by the Secretary pursuant to section 922(n) of this title."; and

(d) by striking out the last sentence of such subsection and inserting in lieu thereof the following: "Paragraphs (4) and (6) of this subsection shall not apply to a sale or delivery to any research organization designated by the Secretary. Paragraph (6) of this subsection shall not apply to the sale or delivery of any firearm to the United States or any department or agency thereof, or to any State, department, agency, or political subdivision thereof, or to any duly commissioned law enforcement officer of the United States or any department or agency thereof or of any State, department, agency or political subdivisions thereof (including but not limited to members of the Armed Forces and police officers) properly authorized to carry such firearms in his official capacity. Paragraph (6) of this subsection shall not apply to the sale or delivery by a licensed importer, licensed manufacturer, or licensed dealer to a licensed dealer of any firearm intended to be sold or delivered to any government or agency thereof or person entitled pursuant to this paragraph to have such firearms sold or delivered to him. Paragraph (6) of this subsection shall not apply to the sale or delivery to a licensed collector or licensed dealer of any firearm which is a curio or relic, as the Secretary shall by regulation define. Paragraph (6) of this subsection shall not apply to occasional, sporadic sales of single handguns by a licensed collector who is not a dealer, as defined by section 921(a) of this title."

SEC. 5. Section 922 of such title 18 is amended by adding at the end thereof the following new subsections:

"(n) The Secretary shall not approve for sale or delivery by a licensed dealer, licensed importer, licensed manufacturer, or licensed collector any handgun model unless he has caused to be evaluated and tested representative samples of such handgun model and finds that—

"(1) in the case of a pistol, the handgun model—

"(A) has a positive manually operated safety device,

"(B) has a combined length and height in excess of 10 inches with the height (right angle measurement to the barrel without the magazine or extension) being at least 4 inches and the length being at least 6 inches, and

"(C) attains a total of at least 75 points under the following criteria:

"(i) Overall length: one point for each one-fourth inch over 6 inches;

"(ii) Frame construction: (I) 15 points if investment cast steel or forged steel, and (II) 20 points if investment cast HTS alloy or forged HTS alloy;

"(iii) Pistol Weight: one point for each ounce, with the pistol unloaded and the magazine in place;

"(iv) Caliber: (I) zero points if the pistol accepts only .22 caliber short or .25 caliber automatic ammunition, (II) three points if the pistol accepts either .22 caliber long rifle ammunition or any ammunition within the range delimited by 7.65 millimeter and .380 caliber automatic, (III) 10 points if the pistol accepts 9 millimeter parabellum ammunition or over, and (IV) in the case of ammunition not falling within one of the classes enumerated in subclauses (I) through (III), such number of points not greater than ten (following the classification schedule of clause (iv) as nearly as is practicable) as the Secretary shall determine appropriate to the suitability for sporting purposes of handgun models designed for such ammunition;

"(v) Safety features: (I) five points if the pistol has a locked breech mechanism, (II) five points if the pistol has a loaded chamber indicator, (III) three points if the pistol has a grip safety, (IV) five points if the pistol has a magazine safety, (V) 10 points if the pistol has a firing pin block or lock; and

"(vi) Miscellaneous equipment: (I) two points if the pistol has an external hammer, (II) 10 points if the pistol has a double action firing mechanism, (III) five points if the pistol has a drift adjustable target sight, (IV) 10 points if the pistol has a click adjustable target sight, (V) five points if the pistol has target grips, and (VI) two points if the pistol has a target trigger;

"(2) in the case of a revolver, the handgun model—

"(A) has an overall frame length of four and one-half inches measured on a line parallel to the barrel,

"(B) has a barrel length of at least three inches,

"(C) has a safety device which (i) automatically in the case of a double action firing mechanism or (ii) by manual operation i. the case of a single action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge, and which, when activated, is capable of withstanding the impact of a weight, equal to the weight of the revolver, dropped a total of five times from a height of 36 inches above the rear of the hammer spur onto the rear of the hammer spur with the revolver resting in a position such that the line of the barrel is perpendicular to the plane of the horizon, and

"(D) attains a total of at least 45 points under the following criteria:

"(i) Barrel length: one-half point for each one-fourth inch that the barrel is longer than 4 inches;

"(ii) Frame construction: (I) 15 points if investment cast steel or forged steel, (II) 20 points if investment cast HTS alloy or forged HTS alloy;

"(iii) Revolver weight: one point for each ounce with the revolver unloaded;

"(iv) Caliber: (I) zero points if the revolver accepts only .22 caliber short or .25

caliber ACP, (II) three points if the revolver accepts .22 caliber long rifle or ammunition in the range between .30 caliber and .38 S. & W., (III) four points if the revolver accepts .38 caliber special ammunition, (IV) five points if the revolver accepts .357 magnum or over, and (V) in the case of ammunition not falling within one of the classes enumerated in subclauses (I) through (IV), such number of points not greater than five (following the classification schedule of clause (iv) as nearly as practicable) as the Secretary shall determine appropriate to the suitability for sporting purposes of handgun models designed for such ammunition; and

"(v) Miscellaneous equipment: (I) five points if the revolver has either drift or click adjustable target sights, (II) five points if the revolver has target grips, and (III) five points if the revolver has a target hammer and a target trigger; and

"(3) the handgun model also meets such additional standards as the Secretary may by regulation promulgate, after consultation with the Chief of Army Ordnance and the Secretary of Commerce, if the Secretary determines that changes in the technology or manufacture of handguns, or actions tending to circumvent the intent of this subsection that approval of only those handgun models which are generally recognized as particularly suitable for sporting purposes be allowed, have rendered inadequate the standards set forth in paragraphs (1) and (2) of this subsection, except that the Secretary shall not promulgate any such regulation which would permit the approval for sale or delivery of any handgun model which could not have been approved in the absence of such regulation.

"(o) It shall be unlawful for any person to reduce the length of the barrel or the overall length of a handgun previously approved by the Secretary for sale and delivery if as a result of such modification the handgun no longer meets the standards for approval set forth in subsection (n) of this section.

"(p) The Secretary shall give written notification of the results of evaluation and testing conducted pursuant to subsection (n) of this section to the licensee submitting samples of a handgun model for such evaluation and testing. If any handgun model fails to meet the standards for approval, the Secretary's notification shall state specifically the reasons for such finding. Any such notification of approval or failure shall be published in the Federal Register. At least once each year the Secretary shall compile a list of all handgun models which are then approved for sale or delivery under subsection (n) of this section, which list shall be published in the Federal Register and furnished annually to each licensee under this chapter.

"(q) Any Licensee submitting to the Secretary for testing a handgun model which is subsequently found not in compliance with relevant standards shall have ten days from receipt of notification of noncompliance within which to submit in writing specific objections to such finding and a request for retesting such model, together with justification therefor. Upon receipt of such a request the Secretary shall promptly arrange for retesting and thereafter notify the aggrieved party of the results, if he determines sufficient justification for retesting exists. Should he determine that retesting is not warranted, the Secretary shall promptly notify the aggrieved party as to such determination. In the event that upon retesting the Secretary's finding remains adverse, or that the Secretary finds retesting is not warranted, the aggrieved party may within sixty days after the date of the Secretary's notice of such finding file a petition in the United States district court in the district in which the aggrieved party has his principal place of business in order to obtain judicial review of such finding. Such review will be in accordance with the provisions of section 706 of title 5, United States Code."

SEC. 6. (a) Chapter 44 of such title 18 is further amended by adding after section 923 the following new section:

"§ 923A. Registration and licensing of handguns; transfer of handguns and handgun ammunition

"(a)(1)(A) No person other than a licensed importer, licensed dealer, or licensed manufacturer shall knowingly possess any handgun unless such handgun is registered with the Secretary pursuant to this subsection. The Secretary shall not register any handgun, the handgun model for which has been disapproved for sale or delivery by a person licensed under section 923.

"(B) No person shall transfer possession of any handgun or ammunition of a caliber other than .22 rimfire to another person for use in a handgun unless the transferee (other than a licensed importer, licensed dealer, licensed collector, or licensed manufacturer) displays a Federal handgun license issued under subsection (b) of this section and temporary evidence of registration of the handgun to be transferred (as provided in paragraph (3)(E) of this subsection). Where the transferee is a licensed importer, licensed dealer, licensed collector, or licensed manufacturer, no person shall transfer possession of any handgun or ammunition other than .22 rimfire for use in any handgun unless such transferee displays a license issued under section 923, and in the case of a licensed collector, temporary evidence of registration of the handgun to be transferred (as provided in paragraph (A)(E) of this subsection).

"(2) Notwithstanding the provisions of section 925(a)(1), the Secretary shall prescribe such regulations as he deems reasonably necessary to provide procedures for the registration of any handgun possessed and for which registration is applied by (A) the United States or any department or agency thereof, or (B) any State, or department, or agency, or political subdivision thereof. Any regulations so prescribed may authorize any such department, agency, or instrumentality of the United States or any State or political subdivision thereof to prescribe its own procedure for registration of handguns subject to the approval of the Secretary.

"(3) The application for registration of a handgun shall be filed in such place as the Secretary by regulation may provide and be in such form and contain such information as the Secretary shall by regulation prescribe including—

"(A) the name, address, and social security or taxpayer identification number of the applicant,

"(B) the number of the Federal handgun license issued to the applicant pursuant to subsection (b),

"(C) the name of the manufacturer, the caliber of gauge, the model and the type, and the serial number of the handgun,

"(D) the date, place, and name and address of the person from whom the handgun was obtained, the number of such person's certificate of registration of such handgun if any, and, if such person is licensed under section 923, his license number, and

"(E) a form containing sufficient copies to allow the applicant to retain a duplicate of the original application which duplicate shall be retained by the applicant and shall be temporary evidence of registration.

"(4) Each applicant shall pay a fee for registering each handgun as follows—

"(A) for the first handgun, a fee of $2.

"(B) for each additional handgun, a fee of $1, and

"(C) for a collection of handguns (as that term is defined in regulations which the Secretary shall prescribe), a fee of $2.

The provisions of this paragraph shall not apply, and no registration fee shall be charged for registration of any handgun possessed and for which registration is applied by—

"(i) the United States or any department or agency thereof,

"(ii) any State, political subdivision, department, or agency thereof.

"(5) Upon the filing of a proper application and payment of the prescribed fee, the Secretary shall issue to the applicant a numbered registration certificate identifying such handgun and such applicant as the registered owner of such handgun.

"(6)(A) Any person shall be ineligible to register or to apply to register a handgun pursuant to this subsection who—

"(i) is under eighteen years of age;

"(ii) is, because of alcoholism, drug addiction, or mental disease or defect, an individual who cannot possess or use handguns safely or responsibly;

"(iii) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

"(iv) is a fugitive from justice;

"(v) is not of good moral character; or

"(vi) is not qualified under all applicable Federal, State, and local laws to register a handgun pursuant to this subsection.

Any purported registration by any of the persons described in this subparagraph shall be void.

"(B) In making determinations under subparagraph (A)(ii) above, an applicant may submit, with his application or subsequent to his initial application, to the Secretary or his authorized representative, a statement from a duly-licensed physician stating that, in the opinion of such physician, such person is not by reason of alcoholism, drug addiction, or mental disease or defect physically or mentally unfit to possess a handgun. The provisions of this subparagraph shall be considered to establish a presumption of fitness on behalf of any person submitting such a statement. Such presumption may be rebutted by clear and convincing evidence to the contrary.

"(7)(A) Any person to whom a handgun registration certificate has been issued by the Secretary under this section shall notify the Secretary of any change in such person's name or address within thirty days of the date of any such change. Such notice shall contain (i) the registration number of each handgun registration certificate issued under this subsection, and (ii) the license number of the Federal handgun license issued to such person under subsection (b) of this section.

"(B)(i) Any person to whom a handgun registration certificate has been issued by the Secretary under this section who transfers possession of any handgun so registered, shall within five days of such transfer, return to the Secretary his registration certificate, noting on it the name and residence address of the transferee, and the date of such transfer.

"(ii) Any person licensed under section 923 shall not accept possession of a handgun by way of pledge or pawn without also taking and retaining, during the term of such pledge or pawn, the Federal registration certificate issued under this section. If such pledge or pawn is not redeemed, such licensee shall return such registration certificate to the Secretary and register the handgun in his own name.

"(iii) The executor or administrator of any estate containing a registered handgun shall promptly notify the Secretary of the death of the registered owner, return the certificate of rgistration of the deceased registered owner, and register the handgun in the name of the estate according to the provisions of this section. The executor or administrator of an estate containing an unregistered handgun

shall promptly surrender such handgun to the Secretary or his designee without compensation and shall not be subject to any penalty for any prior failure to register such handgun.

"(iv) Any person possessing a handgun shall within ten days notify the Secretary (in a manner to be prescribed by the Secretary) of the loss, theft, or destruction of the handgun, and shall notify the Secretary of any recovery of such handgun occurring subsequent to the date of notification of loss under this clause.

"(8) Any person to whom a handgun registration certificate has been issued by the Secretary under this section shall exhibit his registration certificate upon demand of a law enforcement officer.

"(b)(1) No person other than a licensed importer, licensed dealer, licensed manufacturer, or licensed collector shall knowingly possess or receive possession of any handgun or ammunition of a caliber other than .22 rimfire for use in any handgun unless such person has filed an application with and received a Federal handgun license from the Secretary pursuant to this subsection.

"(2) No person (except as provided in subsection (d) of this section), shall transfer possession of any handgun or ammunition of a caliber other than .22 rimfire for use in any handgun unless such person has filed an application with and received a Federal handgun license from the Secretary.

"(3) No person shall transfer possession of any handgun or ammunition of a caliber other than .22 rimfire for use in any handgun unless the transferee (other than a licensed importer, licensed dealer, licensed manufacturer, or licensed collector) displays a license issued under this subsection. Where the transferee is a licensed importer, licensed dealer, licensed manufacturer, or licensed collector, no person shall transfer possession of any handgun or ammunition other than .22 rimfire for use in any handgun unless such transferee displays a license issued under section 923.

"(4) The application for a Federal handgun license shall be in such form and contain such information as the Secretary shall by regulation prescribe, including—

"(A) the name, current address, date of birth, place of birth, and signature of the applicant,

"(B) a statement signed by the applicant (in such form as the Secretary shall by regulation prescribe) that the applicant may lawfully possess handguns and ammunition under the laws of the United States and of the State and political subdivision wherein he resides, and

"(C) a complete set of the applicant's fingerprints and a photograph reasonably identifying the applicant.

"(5) Upon the filing of a proper application and payment of the prescribed fee, the Secretary shall issue a Federal handgun license to the applicant, and such license shall be valid for a period not to exceed three years. Any such license may be renewed upon the expiration of the initial licensing period, and periodically thereafter, for periods (not to exceed three years each) to be prescribed by the Secretary. The Secretary shall by regulation prescribe the application requirements and form for such renewal applications.

"(6) An applicant for a Federal handgun license shall pay a fee for obtaining such a license in the amount of $5, and a fee for renewing any such license in the amount of $5.

"(7) (B) The Secretary shall not approve any application submitted under this subsection if—

"(i) the applicant is under eighteen years of age;

"(ii) the applicant is, because of alcoholism, drug addiction, or mental disease or defect, an individual who cannot possess or use handguns safely or responsibly;

"(iii) the applicant has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

"(iv) the applicant is a fugitive from justice;

"(v) the applicant is not of good moral character; or

"(vi) the applicant is not qualified under all applicable Federal, State, and local laws.

"(B) In making determinations under subparagraph (A)(ii) above, an applicant may submit, with his application or subsequent to his initial application, to the Secretary or his authorized representative, a statement from a duly-licensed physician stating that, in the opinion of such physician, such person is not by reason of alcoholism, drug addiction, or mental disease or defect physically or mentally unfit to possess a handgun. The provisions of this subparagraph shall be considered to establish a presumption of fitness on behalf of any person submitting such a statement. Such presumption may be rebutted by clear and convincing evidence to the contrary.

"(c) Denials by the Secretary of an application for registration of a handgun, or for a Federal handgun license, or renewals shall be subject to the provisions of chapter 5, title 5, United States Code. Any person aggrieved by the action of the Secretary shall have the right to judicial review of such action in accordance with the provisions of chapter 7 of title 5 of the United States Code.

"(d) Notwithstanding the provisions of subsection (b), and except as otherwise prohibited by this chapter or by the laws of any State, or political subdivision thereof, any person licensed under section 923, may transfer a handgun or handgun ammunition of a caliber other than .22 rimfire to a person only if such licensee confirms that the purchaser has been issued a valid Federal handgun license or a Federal dealer's license and notes the number of such handgun or dealer's license in the records required to be kept by section 923(g).

"(e)(1) Information required to be included in any application, form, certificate, or license submitted to or issued by the Secretary under this section shall not be disclosed by him except to the National Crime Information Center established by the Federal Bureau of Investigation, and to law enforcement officers requiring such information in pursuit of their official duties.

"(2) When requested by the Secretary, Federal departments and agencies shall assist the Secretary, to the extent permitted by law, in the administration of this section.

"(f) Whenever the Secretary makes a finding under section 922(n) that a handgun model is not approved for sale or delivery by a licensee under this chapter, the Secretary shall cause notice to be given to all persons in possession of handguns, the handgun model of which has not been approved, of such disapproval. Notwithstanding any other provision of law, not later than sixty days after receipt of such notice, any person so notified may transfer such handgun as provided in section 926. No criminal penalty shall attach by reason of possession of any such handgun in violation of the provisions of this chapter until sixty days have passed since receipt of such notice.

"(g) For purposes of this section—

"(1) the terms 'possess' and 'possession' means asserting ownership or having custody and control;

"(2) the term 'transfer' means all sales, gifts, bequests, loans, and other means of acquiring possession of a handgun from the transferor to another person;

"(3) the term 'person' means all individuals, corporations, companies, associations, firms, partnerships, clubs, societies, joint stock companies, and estates; and

"(4) the term 'registered owner' means the person in possession of a handgun which is registered under this section and to whom the Federal registration certificate has been issued."

(b) The table of sections for chapter 44 of title 18, United States Code, is amended by inserting—

"923A. Registration and licensing of handguns."

immediately after

"923. Licensing.".

SEC. 7. Section 924 of such title 18 is amended by adding at the end thereof the following new subsections:

"(e) Whoever violates any provision of section 923A of this chapter shall be fined not more than $5,000, or imprisoned not more than five years, or both.

"(f) Whoever knowingly falsifies any information required to be filed with the Secretary pursuant to section 923A of this chapter, or forges or alters any certificate of registration, or license issued or retained under such section, shall be fined not more than $10,000, or imprisoned for not more than five years, or both.".

SEC. 8. (a) Section 925 (a) of such title 18 is amended—

(1) by inserting in paragraph (1) immediately after "chapter" the following: "(except as provided in section 923A (a))"; and

(2) by inserting in paragraph (2) immediately after "chapter" the following: "(except as provided in section 923A(a)".

(b) The first sentence of section 925(c) of such title 18 is amended by striking out "(other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)" and inserting in lieu thereof the following: "(other than a crime involving the use of a firearm or other weapon or a violation of any section of this chapter except section 923A or of the National Firearms Act)".

(c) Section 925(d)(3) of such title 18 is amended to read as follows:

"(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954; is not a surplus military firearm; and if a handgun, has been approved by the Secretary pursuant to section 922(n) of this title; or".

SEC. 9. (a) Sections 926, 927, and 928 of such title 18, and all references thereto, are redesignated as sections 927, 928, and 929, respectively.

(b) Chapter 44 of such title 18 is further amended by inserting after section 925 the following new section:

"§ 926. Compensation for reasonable value of handguns voluntarily transferred to law enforcement agencies

"(a) A person may at any time transfer to any Federal, State, or local law enforcement agency designated by the Secretary any handguns owned or possessed by such person.

"(b) In the case of transfer pursuant to subsection (a), the person transferring such handgun shall, upon proof that such handgun was lawfully acquired and lawfully owned by such person prior to enactment of the Handgun Control Act of 1973, be entitled to receive from the United States a payment equal to the reasonable value of such handgun, such value to be determined as of the day before enactment of the Handgun Control Act of 1973."

SEC. 10. Section 927 (as redesignated by section 9 of this Act) of such title 18 is amended to read as follows:

"§ 927. Rules and regulations; periods of amnesty

"(a) The Secretary may prescribe such

other rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter, including—

"(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of such license;

"(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection; and

"(3) regulations providing reasonable requirements for the marking of handguns that do not have serial numbers.

The Secretary shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

"(b) The Secretary may declare periods of amnesty for the registration of handguns under section 923A or the transfer to any Federal, State, or local law enforcement agency of any handgun under section 926."

SEC. 11. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 12. (a) The provisions of this Act shall take effect immediately upon enactment, except that sections 4 and 8 of this Act shall take effect sixty days after the date of enactment and section 923A (a) of such title 18, as added by section 6 of this Act, shall take effect as provided in subsection (b) of this section.

(b) Section 923A of such title 18, as added by section 6 of this Act, shall take effect six months after the date of enactment of this Act. Each person within any State who possesses any handgun on the effective date of such section shall, within sixty days following such effective date, complete the registration and licensing required by the provisions of such section. Each person within any State who purchases a handgun after such effective date shall, within sixty days following such date or thirty days following such purchase, whichever is later, complete the registration required by such section.

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

Mr. STEVENSON. I yield.

Mr. HART. I happened in toward the closing portion of the Senator from Illinois' eloquent remarks, and I rise simply to assure him that, as one who perhaps can be labeled as being at the extreme on this question, I do not find myself displeased with the suggestion the Senator from Illinois is making. Along with six others in this body a year ago, I supported the proposition that we should, indeed, outlaw the handgun, save for law enforcement officials and, under very restricted conditions, sportsmen in licensed gun clubs. Given the experience of last year; namely, seven votes, I think the most I could hope for at the moment would be the adoption of the proposal by the Senator from Illinois, and that would be, I think, a significant advance.

Mr. STEVENSON. I want to thank the Senator from Michigan. He has been a leader in showing us the threat to national tranquility from handguns. He has fought bravely for an end to that threat to our tranquility. I wish I could be more optimistic. I brought up a similar proposal after the proposal made by the Senator from Michigan was defeated last year. His received seven votes. My proposal, which attempted to strike a compromise balance between the legitimate interests of gun owners and the real necessities of law enforcement, received only 16 votes, which is a testament to the power of the gun lobby in this country. But I would hope that we might be able to do something. I am encouraged by the Senator's remarks that perhaps now, after still more violence and now the recent assault on Senator STENNIS, we would all see the merit in some of these proposals.

Mr. BROOKE. Mr. President, I would like to associate myself with the remarks made by the Senator from Illinois and the Senator from Michigan.

By Mr. STEVENSON (for himself, Mr. HUMPHREY, and Mr. MATHIAS):

S. 709. A bill to amend the Legislative Reorganization Act of 1970 to provide for the availability of certain proposed agency rules, regulations, and orders. Referred to the Committee on Government Operations.

Mr. STEVENSON. Mr. President, Senator HUMPHREY, Senator MATHIAS, and I are today introducing legislation designed to strengthen the ability of Congress to assure that the laws it passes are properly administered.

We have all experienced the frustration of seeing legislation Congress has enacted administered in a manner which bears no relation to our original intent. Indeed, it often appears that the administration is more concerned with the reaction of various clientele groups than it is with Congress. For example, OMB Circular A–85 mandates that any Federal regulations affecting State or local governments be sent to the following organizations for comment prior to publication in the Federal Register: National Governors Conference, Council of State Governments, International City Management Association, National Association of Counties, National League of Cities, and United States Conference of Mayors. These organizations are given 30 days to address comments to the Federal agency involved and to OMB. The Advisory Council on Intergovernmental Relations will arrange a meeting on request between any of these organizations and the Federal agency to discuss the regulations. OMB Circular A–85 then continues:

If the agency does not accept major changes suggested by a State or local government association, it will promptly notify the association in writing of its decision, and will send a copy of the notification to the ACIR and the Office of Management and Budget. Within three days of receipt of notification, the State or local government association may request the ACIR to arrange a prompt meeting between representatives of the agency and the association to consider modifications of the proposed regulations. ACIR will notify the Office of Management and Budget of such a meeting.

I have no quarrel with the procedure specified in OMB circular A–85, except it ignores the Congress. Congress, which passed the laws the regulations are presumably written to implement, is the agency of Government ignored.

The legislation Senator HUMPHREY, Senator MATHIAS, and I are introducing would remedy this incomprehensible situation by simply requiring a Federal agency to make a copy of proposed rules or regulations available to the appropriate committees in Congress for comment any time such a document is made available to an individual or organization outside the Federal Government.

If enacted, this legislation will represent a small step toward reestablishing the balanced relationship between the legislative and the executive branch which has been lacking in recent years.

For the information of my colleagues I ask unanimous consent that OMB circular A–85 be printed in the RECORD at this point, to be followed by the bill.

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

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., January 20, 1971.

To: Heads of executive departments and establishments.

Subject: Consultation with heads of State and local governments in development of Federal regulations.

1. *Purpose.* This Circular, in accordance with certain general purposes of Title IV of the Intergovernmental Cooperation Act of 1968 (P.L. 90–577), provides that the chief executives of State and local governments will be given a reasonable opportunity to comment on major proposed Federal rules, regulations, standards, procedures and guidelines (hereafter called regulations), major interagency agreements concerning program operations and major organizational changes, any of which have a significant and nationwide effect on State and local governments. This Circular also provides for assistance by the Advisory Commission on Intergovernmental Relations (ACIR) in arranging to obtain State and local advice and comment on such matters, in cooperation with State and local general government associations. Circular No. A–85, dated June 28, 1967, is superseded by this revision.

2. *Background.* Federal agencies administering assistance and other programs affecting State and local government normally issue regulations under which those programs are administered. These regulations may affect the conduct of State and local affairs, including management and organization, planning, program adjustments, and fiscal and administrative systems. Federal requirements may not be consistent among Federal agencies or permit needed flexibility for State and local governments. Heads of State and local governments, therefore, should be afforded an opportunity to comment on Federal regulations prior to issuance and certain Federal interagency agreements and organizational changes prior to implementation.

3. *Policies.* Agencies will be guided, to the fullest practical extent consistent with Federal laws, by the following practices:

a. Whenever possible, agencies should engage in necessary consultation well in advance of the formal development and submittal of materials under this Circular so as to minimize the need for extensive review and discussion at the final stages of the development of regulations.

b. The central coordinating role of heads of State and local governments, including their role of initiating and developing State, regional, and local programs, will be supported and strengthened.

c. Federal regulations should not hamper the heads of State and local governments in providing effective organizational and administrative arrangements and in developing planning, budgetary, and fiscal procedures responsive to needs.

d. Duplication of reporting requirements and controls which are established by State and local governments will be avoided, and

Federal agencies should rely wherever possible on internal or independent audits performed at the State or local level as provided in Circular No. A-73, dated August 4, 1965.

e. Except as may be required by law or special circumstances, agency regulations dealing with like matters (e.g., allowable costs, definitions of like terms, and procedures and information needed for determining eligibility in like cases) will be consistent both internally and with practices of other agencies.

4. *Coverage.* This Circular applies to major agency regulations and revisions thereof, major interagency agreements concerning program operations and major organizational changes, any of which have a significant and nationwide effect on State and local governments, including quasi-public agencies (e.g., urban renewal agencies), and which directly affect one or more of the following:

a. Interstate relationships.

b. Intergovernmental relationships (e.g., State-local and interlocal),

c. Types of eligible recipients,

d. Designations of agencies within State or local governments,

e. Requirements affecting State or local personnel practices,

f. Organizational, planning, or fiscal activities of State and other governments, and

g. Roles and functions of heads of State or local governments.

5. *Procedures for informing State and local government associations of proposed new or revised regulations, and significant organization changes having a nationwide effect.*

a. The issuing agency will provide to the ACIR at least 20 copies and summaries of the proposed regulation or proposed organization change (in the case of interagency agreements, one of the parties to the agreement will take the lead in providing the necessary copies). This should be done not less than 45 days and, if practical, 60 days before the intended date of promulgation. Also, this should generally be done in advance of publication of proposed regulations in the Federal Register, although it may be necessary in some circumstances to have such publication occur simultaneously with or prior to the completion of the review process provided for in this Circular. If special legal or other circumstances do not permit at least 45 days for such notice and comment, the agency will advise the ACIR of the time available and provide at least 60 copies of a summary or abstract in lieu of the full draft text of the regulation. Such summaries should describe the nature and significance of any changes in existing policies affecting State and local governments.

b. The ACIR will promptly transmit copies of the agency materials to each of the following State and local government associations: National Governors' Conference, Council of State Governments, International City Management Association, National Association of Counties, National League of Cities, and United States Conference of Mayors. Other groups representing central management units may be sent copies of material of concern to them. ACIR will also transmit a copy to the Office of Management and Budget.

c. Unless an earlier response is essential, the State and local government associations will be given a minimum of 30 days after receiving agency materials in which to comment, addressing comments directly to the Federal agency concerned, and transmitting copies to the ACIR and the Office of Management and Budget.

d. If requested either by the Federal agency concerned or by a State or local government association, the ACIR will arrange a meeting between representatives of the agency and the association (along with State or local chief executives or their representatives, where desirable) to consider the comments offered on the proposed regulations or organization changes.

e. If the agency does not accept major changes suggested by a State or local government association, it will promptly notify the association in writing of its decision, and will send a copy of the notification to the ACIR and the Office of Management and Budget. Within three days of receipt of notification, the State or local government association may request the ACIR to arrange a prompt meeting between representatives of the agency and the association to consider modifications of the proposed regulations. ACIR will notify the Office of Management and Budget of such a meeting.

f. When appropriate and desirable, the Office of Intergovernmental Relations shall also be advised of, and participate in any discussions and meetings under this paragraph.

g. The agency will supply seven copies of the regulation, when issued in final form to the ACIR for distribution to the State and local government associations.

h. Each agency should promptly designate one official to see that these provisions are carried out, and inform the State and local government associations, the Office of Management and Budget and the ACIR of the name of the official.

6. *Additional functions of the ACIR.*

a. The ACIR is prepared to assist agencies in developing new regulations covered by this Circular and will assist in assuring that regulations dealing with like matters are consistent, as provided in paragraph 3(d).

b. By January 31 of each year, the ACIR will make a report to the Director of the Office of Management and Budget concerning operations under this Circular during the preceding calendar year. Copies of the report will be furnished to each agency and the associations representing general units of State and local government.

7. *General considerations.* This Circular deals only with limited aspects of intergovernmental consultation: the development of regulations and organizational changes which significantly affect State and local governments. The Circular is not intended to limit the consultation process to these aspects of the intergovernmental problem. Well in advance of the stage of promulgating formal regulations or implementing significant organizational changes, consultation should be pursued actively with heads of State and local governments so that consultation need not be concentrated in a brief period prior to the proposed action. This is especially important in the case of new programs where consultation should include briefings on the nature and significance of such programs.

On the other hand, the Circular is not intended to limit the ability of agencies to carry out their mission responsibilities. It is not intended that all proposed regulations or revisions or organizational changes will be automatically channeled through the procedure called for in this Circular; no purpose would be served by creating congestion and delay. Judgment must be exercised by the agencies and by the State and local governments in applying the Circular and selectivity will be needed in determining which substantive and administrative regulations and organizational changes are significant enough to be put through the consultation arrangements.

This Circular is addressed primarily to new regulations or revisions of existing Federal regulations. However, agencies will give consideration to requests from heads of State and local governments to review and revise regulations already in effect, and to consult on such regulations with such officials on request.

8. *Effective date.* The provisions of this Circular become effective immediately.

GEORGE P. SHULTZ,
Director.

S. 709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title III of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following new part:

"PART 4—AVAILABILITY OF CERTAIN PROPOSED AGENCY DOCUMENTS AND DRAFTS

"AVAILABILITY

"SEC. 341. (a) For purposes of this section—

"(1) 'Federal agency' means any department, agency, wholly owned Government corporation, establishment, or instrumentality in the executive branch of the Government of the United States (including the United States Postal Service and the Postal Rate Commission);

"(2) 'document' means any rule, regulation, order, certificate, code of fair competition, license, notice, or similar instrument, and any proposed rule, regulation, order, certificate, code of fair competition, notice, or similar instrument, issued, prescribed, or promulgated by a Federal agency which, when issued, prescribed, or promulgated is required by law to be published in the Federal Register; and

"(3) 'person' includes any State, any territory or possession of the United States, any political subdivision, agency, or department of a State, territory, or possession, or any agency of two or more States, territories, or possessions.

"(b) Whenever a Federal agency makes a copy of a document available to a person (other than an officer or employee in the executive branch of the Government of the United States) prior to its publication in the Federal Register, or makes a copy of a draft of a proposed document available to any such person, that Federal agency shall at the time of such availability transmit a copy of such document or such draft to each committee of the Senate and House of Representatives, and each joint committee of Congress, having jurisdiction over the subject matter or matters which are included in the document or draft."

(b) Title III of the table of contents of such Act is amended by adding at the end thereof the following:

"Part 4—Availability of Certain Proposed Agency Documents and Drafts

"Sec. 341. Availability."

By Mr. FANNIN:

S. 710. A bill to prohibit fines for crossing unlawful picket lines;

S. 711. A bill to amend the National Labor Relations Act with respect to election of representatives;

S. 712. A bill to amend the national emergency provisions of the Labor-Management Relations Act, 1947, so as to provide for dissolution of injunctions thereunder only upon settlement of disputes; and

S. 713. A bill to provide for strike ballots in certain cases. Referred to the Committee on Labor and Public Welfare.

Mr. FANNIN. Mr. President, today I am introducing four bills to amend the National Labor Relations Act.

The first bill is an amendment to section 8(B)(1) of the National Labor Relations Act to prohibit the levying by unions of fines against employees for

exercising their right under the act. Under this proposal, for example, a union could not fine an employee for exceeding production quotas set by the unions, crossing union picket lines, filing decertification petitions, nor for testifying in Board proceedings against a union. It seems to me that unions cannot be regarded in the same light as private voluntary associations, which are and should be free to impose on its members whichever rules it chooses. This bill will carry out the intent of Congress that the rights given to unions carry commensurate responsibility and obligations on unions to act in the public interest and in the interests of their members.

A December 1972 decision of the U.S. Supreme Court limiting the right of a union to fine members who cross picket lines received widespread attention by the press—NLRA against Granite. While I applaud that decision, it meets only a very limited portion of the problem. The facts upon which the Court based its opinion were: First, all 31 members had resigned before crossing the picket line and returning to work; and second, the union's constitution and bylaws were silent upon the right of a member to resign. Left unanswered are such questions as whether expulsion from membership is a lawful way to collect the fines and whether NLRB may decide the "reasonableness" of fines.

Mr. President, the second bill I am introducing concerns the NLRB rule directing that in representation elections the employer must file with the regional director a list of the names and addresses of each employee who is eligible to vote in that election. Thereupon the Board makes the list available to all unions interested in the election. If the employer fails to do so and a union loses the election, the Board will set aside the election and conduct a new one. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *Wyman-Gordon Co.* v. *NLRB*, 397 F. 2d 494 (1st Cir. 1968); 394 U.S. 759 (1969).

Mr. President, there are at least three things wrong with the current NLRB rule. First, it sloughs over the very important personal right of privacy held both by the employer and his employees. The Board may not think much of it, but there are many employees who do not like harassment by unions any more than they do badgering from any other source. These are people who simply do not want to become a target for solicitations from labor union representatives calling by telephone, ringing their doorbells, and stuffing their mailboxes any more than they want other saleshawkers at their homes.

In other words, each individual has a right to be left alone. And just because a union wants to gain a huge advantage in its representation campaign by getting hold of the employer's list does not justify invading that privacy. If the employee wants the union to have his name and home address, let him volunteer it. But let us stop this outrageous disregard of individual rights simply to promote the preconceived notions of the Board as to what is good for each employee.

Second, the Board's ruling may well violate the personal opinions of the employer, thereby putting him in the position of being forced to aid the cause of the union in its campaign at the same time his beliefs may oppose the union. It requires him to communicate to the union, through the Board, information which is extremely helpful to the union, though he may wish to remain silent. To be forced to speak when one wishes to remain silent is, in my opinion, equally as bad as not being allowed to speak at all.

When there is a large number of voters—500 to 1,000—unions often file petitions even though they have a bare 30 percent and no real expectation of winning the election. After they get the list, they sometimes withdraw the petition and refile at a later date when there is a greater chance of winning. Sometimes the union will go through with the election and lose it. But a year later, the organizer has a list of names and addresses to work with.

My bill would make it clear that employers are not obligated to furnish such lists.

Mr. President, the third bill I am introducing is identical with the bill I sponsored in both the 91st, and 92d Congresses.

It would amend the national emergency provisions of the Taft-Hartley Act to provide for dissolution of injunctions only upon the settlement of disputes. Under existing law, injunctions are limited to 80 days. The national interest must be protected as long as is necessary. Unions will, of course, retain the right to strike a particular plant or even a segment of an industry. The injunction, as under existing law, can be enforced only where the strikes are so broad as to jeopardize the national health and welfare.

Mr. President, the fourth bill I am introducing would give union members a voice in determining whether they wish to remain on strike in prolonged labor disputes.

The idea of providing for a secret strike vote is not new. It was recommended to the Congress by President Eisenhower in 1954. My proposal is new only insofar as it recognizes that there are legitimate reasons why a prestrike vote may adversely affect free collective bargaining. The bill, accordingly, provides for a secret ballot by the workers concerned only on continuing the strike and only after the right to strike has been exercised and the positions of the parties have tended to become stalemated.

Under my proposal a petition for an election to determine whether a strike should continue could not be filed until after a strike had been in effect for 30 days. The bill further provides that no more than one strike-vote election can be held within any 60-day period. The purpose of this proviso is to insure that the union's ability to bargain effectively will continue after a vote favorable to a continuation of the strike.

The bill also contains a provision designed to protect the identity of petitioners. Thus, under this proposal the required percentages necessary for an election could be secured through the filing with the Board by individuals of their approval of the petition.

Within these limitations the bill provides workers caught in a protracted bargaining stalemate with a means of ending a strike which has gone beyond the point of economic return or, alternatively, with a means of expressing to management and to the public their determination to continue the strike, despite the economic costs.

Mr. President, consider the workers whose lives and livelihood are directly affected by these struggles between the giants of labor and the giants of industry. These are the real victims in labor disputes that drag on in long and costly strikes. I know about these workers because we had more than 10,000 of them in the State of Arizona—the victims of a copper strike who still have not recovered from the long strike 5 years ago. My distinguished colleagues from New Mexico, Montana, Nevada, and Utah, as well as the other copper-producing States, had thousands more of these "forgotten men" in their constituencies.

The situation in the copper industry was symptomatic of a nationwide problem that can affect almost every workingman and woman in America. Consider the copperworker who endured months of enforced idleness. And think also of what the situation is in other industries around the Nation. I think it can be said with accuracy that almost any time a strike lasts more than 30 days, the worker stands to lose more than he can gain. I point out the General Motors strike, for example. It will take the average automobile production worker at General Motors several years to make up what he lost.

Take the machinists' 73-day strike against the major airlines during the summer of 1966. Who won? Only the high chiefs of the IAM—they showed the airlines who was top dog. And they showed the general public, too, and thousands of vacationers who had to give up their vacation plans or who were left stranded around the country.

Take the strike in the rubber industry in 1968—107 days enforced idleness, or the long steel strike in 1959, or the General Motors strike in 1964—it is the same story right down the line. Who wins? Well, really, nobody wins in a strike, but in each instance the union high command shows who is running the ball game, who has the economic stranglehold. And who loses? The worker. Every time, it is the worker.

Strikes are becoming not only more frequent, but they are becoming more severe. The length of strikes has tended to increase in many instances. Stubborn issues affecting the prerogatives of both labor and management have impeded the settlement of many strikes. In such protracted strikes the forgotten man has become the striking worker, who has paid the price in lost earnings while the unions and management have struggled for power.

I note, for example, taking available data for the first 10 months of 1968 and comparing it with the same period in previous years, that the number of strikes taking place during the first 10 months of

1963 was only 3,143, while the number going on during the first 10 months of 1968 was 4,630. In 1967 the number had been only 4,210. But, and this is the crux of the matter, the number of man-days of working time lost has been higher in recent years than at any time since 1959, when we had the long, disastrous strike in the basic steel industry.

In the first 10 months of 1963, we lost some 13.7 million working days. In January through October 1967, we lost 36.4 million man-days. In the same period in 1968, we lost 38.5 million.

Now it may seem of no great significance, Mr. President, that we lost more man-days in 1968 than in 1967. We had more strikes and a greater loss was to be expected. But in the 1967 period, we had 2,590,000 workers on strike while in 1968 we had only 2,170,000 workers idle. So the number of days lost per worker rose quite sharply between these 2 years. This is the significance of this data.

More recently, Mr. President, in 1970, 3,305,000 workers were unemployed due to 5,716 strikes which cost the Nation 66.4 million man working-days lost.

Strikes are getting longer, harder to settle, and less and less meaningful to the workers involved in terms of economic gain. It is less and less often a day or two on the picket line and a return to a fattened pay envelope.

More and more often, a strike involves weeks of unemployment and lost production, repossessed automobiles and lost profits, foreclosed mortgages and bankrupt businesses.

I think that the time is at hand when the Congress will stop automatically labeling any bill which the union leaders oppose as an antilabor bill and consider each such bill on its merits. Is it not just as important to protect the rights of workers to vote for an end to a strike as it is to protect their right to strike? If they strike and it proves to have been a mistake, must they, their families, management, and the public suffer the results indefinitely, with no opportunity for them to reconsider, when the point of economic return for all parties involved has been reached and passed?

The year 1973 will see massive confrontations in some of our most critical industries because of contract negotiations. To mention a few of the larger contracts which will expire this year, I point to the rubber workers and the major tire manufacturers, the building trades, the unions, contracts between General Electric and Westinghouse with various unions, the auto workers, and the machinists with the major airlines.

The workingman has little effective voice in the decision of their union officers to call a strike. While some union constitutions require an employee vote, the actual vote often consists of a show of hands by a small group attending a meeting. Often the strike vote is taken before bargaining has commenced with the union officers contending that it will make them more effective at the bargaining table.

A recent indepth survey by the Opinion Research Corp., of Princeton, N.J., shows that:

First. Eighty-one percent of union members want a law that would require a secret ballot on whether to continue a strike after 30 days—the public favors this by 77 percent.

Second. Eighty-nine percent of union members support giving unions and management equal rights to communicate with employees at any time—the public favors this by 78 percent.

Third. By 85 percent, union members want to be guaranteed the right to criticize union leaders without fear of reprisal—the public favors this by 74 percent.

Fourth. Fifty-two percent of union members and 51 percent of the general public would forbid strikes caused by union rivalry.

Fifth. Sixty-one percent of union members feel that strikes seriously hurt the Nation; 53 percent of them favor Government intervention to prevent or end big nationwide strikes.

These surveys demonstrate overwhelming support by both union members and the public for this bill.

I sincerely hope, Mr. President, that my bill will receive early and fair consideration on its merits, and that this Congress, like the striking workers, be given an opportunity to vote the issue, up or down.

Mr. President, I send these bills to the desk for appropriate reference and I ask unanimous consent that the text of the bills be printed in the RECORD at this point.

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

S. 710

A bill to prohibit fines for crossing unlawful picket lines

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8(b)(1) of the National Labor Relations Act (29 U.S.C. 158(b)(1) is amended by inserting before the semicolon at the end thereof a colon and the following: *"Provided further,* That no labor organization may levy a fine on an employee for exercising rights under this Act, including the right to engage in or refrain from such concerted activity as is unlawful under this Act and not prohibited by the applicable collective-bargaining contract, or for giving testimony in any proceeding under this Act, or for carrying out the instructions of his employer not in conflict with this Act or with the terms of the applicable collective-bargaining contract".

S. 711

A bill to amend the National Labor Relations Act with respect to election of representatives

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8(c) of the National Labor Relations Act (29 U.S.C. 158(c)) is amended by adding a new paragraph at the end thereof as follows:

"No labor organization or employer shall be required to furnish, provide access, or make available, directly or indirectly, to the employer, in the case of a labor organization, or to the labor organization, in the case of an employer, materials, information (including but not limited to names and addresses of employees), time, premises, meeting places, bulletin boards or other facilities to enable such other party to communicate with or reply to any communication with employees of the employer, members of the labor organization, its supporters or adherents."

S. 712

A bill to amend the national emergency provisions of the Labor-Management Relations Act, 1947, so as to provide for dissolution of injunctions thereunder only upon settlement of disputes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 209(b) of the Labor-Management Relations Act, 1947 (29 U.S.C. 179(b)), is amended by striking out the words "and shall certify the results thereof to the Attorney General within five days thereafter".

(b) Section 210 of such Act (29 U.S.C. 180) is amended by striking out the words "Upon the certification of the results of such ballot or upon a settlement being reached, whichever happens sooner" and inserting in lieu thereof "Upon a settlement being reached".

S. 713

A bill to provide for strike ballots in certain cases

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act—

(1) The term "Board" means the National Labor Relations Board.

(2) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate in which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(3) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any territory of the United States and any State or other territory, or between any foreign country, and any State, territory, or the District of Columbia, or within the District of Columbia or any territory, or between points in the same State but through any other State or any territory or the District of Columbia or any foreign country.

(4) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce.

(5) The term "strike" includes any concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective-bargaining agreement, and any concerted slowdown or other concerted interruption of operations by employees.

SEC. 2. Upon the filing with the Board of a petition therefor signed by at least 20 per centum of the employees in the appropriate bargaining unit or units involved in a strike which has been pending for thirty days or more in any industry affecting commerce, the Board shall conduct a referendum among the employees of such unit or units on the question whether such strike should be continued. If a majority of the employees voting in the referendum vote against the strike, the labor organization representing the employees shall order such employees to discontinue the strike and such strike shall not be resumed until at least ninety days have elapsed following the referendum. If a majority of those voting in the referendum vote in favor of the strike no subsequent petition may be filed under this section until at least sixty days have elapsed following such referendum, and unless such subsequent petition has been signed by at least 30 per centum of the employees in the appropriate bargaining unit or units involved in the strike. In determining whether

a petition under this section has been signed by the requisite percentage of employees, such petition shall be deemed to have been signed by any employee whose approval in writing of such petition is filed with the Board not later than thirty days following the filing of the petition.

SEC. 3. Any employee who participates in a strike which has been continued, or resumed prior to the expiration of ninety days, after a majority of the employees in the appropriate bargaining unit or units involved in the strike voting in the most recent referendum conducted with respect to such strike under this Act shall have voted against such strike shall not during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employer for the purposes of the National Labor Relations Act or the Railway Labor Act.

SEC. 4. Referendums provided for in this Act shall be conducted by the Board, except that the Board may delegate, generally or in specific cases, authority to conduct such referendums to any public or private agency or organization which, in the opinion of the Board, is qualified to conduct such referendums.

SEC. 5. Nothing contained in this Act shall be construed to supersede or modify in any way the requirements of section 8(d) of the National Labor Relations Act.

By Mr. FONG:

S. 714. A bill to increase the rates of duty on prepared and preserved pineapple and concentrated pineapple juice. Referred to the Committee on Finance.

Mr. FONG. Mr. President, I am introducing legislation today to enable Hawaiian pineapple products to compete in the U.S. market with low-cost foreign canned pineapple which can easily undersell Hawaiian pineapple.

One of the finest products in all America is the sweet, juicy, delectable pineapple grown in Hawaii.

Since the turn of the century, pineapple has been a mainstay in Hawaii's economy. Today it is still my State's second largest agricultural industry, second only to sugar.

The processed value of Hawaiian pineapple last year was $137 million. The industry employs 6,200 year-round workers who earned $42 million in annual wages and another 12,000 seasonal workers who earn a total of $10 million a year.

Hawaii's pineapple industry has been very energetic and progressive, investing millions of its own dollars in research to improve pineapple quality and production. The Hawaiian pineapple industry is the most highly mechanized in the world and its fieldworkers are the highest paid in the world.

The danger flags have been flying for some years, however, and our Hawaiian pineapple industry needs help.

In the mid-1950's, Hawaii had nine pineapple companies. Today there are only four and within a year there will be only three. One of the remaining three plans to discontinue its operations on the island of Molokai by the end of 1975 or at the latest sometime in 1976. Another of the three announced just last week it will phase out its pineapple production on Molokai over the next 2½ years.

These two curtailments will mean more than 600 workers will be looking for other jobs on an island where the population is only 5,200 and the total unemployment is already about 21 percent. If present unemployment continues until pineapple operations are phased out on Molokai in 2 to 2½ years, workers without jobs would total 1,000 out of a labor force of 1,800—a 55 percent jobless rate.

In 1950, Hawaii's share of the total world pineapple production was 72 percent. By the end of 1969, Hawaii accounted for less than 33 percent of the world's supply.

Hawaii's pineapple industry faces four main problems: First, production costs much higher than its foreign competitors; second, lack of Food and Drug Administration enforcement of minimum standards of identity; third, high duties and quotas erected against Hawaiian pineapple by the major foreign markets; and, fourth, lack of adequate duties or quotas to protect Hawaiian pineapple from unfair foreign competition in the U.S. market as other canned U.S. fruits are protected.

A major reason why foreign pineapple has lower production costs than Hawaii is that labor costs are much, much lower than in Hawaii. Take Taiwan and the Philippines, for example, which are two major pineapple producing areas. I am advised that a male laborer in Taiwan makes 17 cents an hour—a female laborer, 10 cents—and in the Philippines, 15 cents. In Hawaii, a pineapple laborer is paid $2.64 an hour.

Cannery workers' wages in Taiwan range from 8 cents for a female worker to 17 to 22 cents for a male worker and 20 cents for a Philippine cannery worker. Such workers in Hawaii earn $2.69 an hour.

Drivers in Hawaii draw $3.19 an hour and in the Philippines only 20 cents an hour. Mechanics earn $3.69 an hour in Hawaii, but only 24 cents in the Philippines.

Not only is labor cheap in those pineapple-producing areas, but it is plentiful. Even with the higher wages in Hawaii, our pineapple companies are finding it more and more difficult to attract workers into the industry.

With an estimated 50 percent of low-cost foreign pineapple failing to meet FDA minimum standards of identity and quality, at the urging of Hawaii's congressional delegation the Food and Drug Administration agreed to begin enforcing its standards, effective November 1 last year. A small staff has been assigned to the project. It is too early to tell how much, if any, assistance this program will be in making Hawaiian pineapple more competitive.

As for duties and quotas imposed by importing countries against Hawaiian pineapple, our pineapple industry and Hawaii's Members of Congress have tried since Hawaii became a State in 1959 to get a fairer shake for Hawaiian pineapple in world markets. But so far, efforts to lessen foreign discrimination against Hawaiian pineapple have not been very successful.

Japan has high duties and also imposes a quota for pineapples so as to protect virtually all of Okinawa's pineapple production, which Japan imports. In addition, Japan has had a bilateral agreement with Taiwan, with special favorable treatment for its pineapple. Although this agreement has expired, Japan is likely to continue to favor Taiwan pineapple because Japan enjoys a very favorable trade with that country, selling much more of Japanese products that it buys from Taiwan.

The duty rate in Japan on other foreign pineapple is 55 percent ad valorem, which includes a 20 percent commodity tax renewable by the Diet each year. This contrasts sharply with the U.S. duty of only ¾ cent a pound—6.6 percent ad valorem equivalent.

Japan also has a global quota system in effect limiting per capita pineapple consumption to 1 pound. After the Okinawan and Taiwan pineapple are imported, there is only a residual quota amount for which all other pineapple-producing countries compete.

Out of total imports of 2,474,687 cases of canned pineapple fruit in 1970, Japan only imported 30,728 cases from the United States—Hawaii. The other 2,443,959 cases were imported from other countries, mainly Okinawa and Taiwan.

While Europe is the major foreign market for U.S. canned pineapple, the European Common Market imposes an ad valorem duty of 24.6 percent, to protect such areas as Martinique and the Ivory Coast. This protectionist rate is far higher than the U.S. duty of ¾ cent a pound—6.6 percent ad valorem equivalent.

The United Kingdom is a major importer of canned pineapple fruit, but buys very little from Hawaii, giving preference instead to British Commonwealth countries, whose pineapple enters the United Kingdom duty free. With the United Kingdom's entry into the European Common Market, the 24.6 percent ad valorem duty on pineapple will apply against the Commonwealth countries. So these Commonwealth pineapple-producing countries are looking into the U.S. market, where our duty on foreign canned pineapple is negligible, to make up for lost sales in the United Kingdom.

This will obviously generate even more competition in the U.S. market for Hawaiian pineapple, because Commonwealth countries will be able to undersell Hawaiian pineapple even with the U.S. duty added to the cost of Commonwealth pineapple.

That brings us to the fourth problem and the remedial legislation I am proposing. The United States imposes no quotas on foreign pineapple imports, and existing U.S. import duties, as I have stated, are so low as to offer no real protection for Hawaiian pineapple against low-cost foreign pineapple.

Existing U.S. import duties on canned pineapple fruit are only ¾ cent a pound, which is the equivalent ad valorem rate of 6.6 percent—3.3 percent for the Philippines until July 1, 1974, when it will rise to 5.6 percent.

The U.S. duty on concentrated canned pineapple juice is only 5 cents a gallon, which is 7.9 percent ad valorem equivalent.

With such unrealistically low duties, it is no wonder that between 1950 and

1971, imports of foreign canned pineapple fruit into the United States increased by 3,870,781 cases—a 204-percent increase.

In dollar-value equivalent, this amounts to $38.7 million. If this production were from Hawaii, 10,000 additional acres of pineapple production would be needed and 2,000 more year-round jobs would be created.

While the situation is not so severe in pineapple juice, still low-cost foreign imports have increased at the expense of Hawaiian canned pineapple juice.

It would be disastrous if Hawaii's pineapple industry were to be wiped out by unfair foreign competition. Finding jobs in Hawaii for 6,000 full-time, year-round and 12,000 part-time pineapple workers would be extremely difficult. Finding a replacement industry would be very difficult.

We cannot continue to pin our future on trade negotiations in the hope that nations now harshly discriminating against Hawaiian pineapple would open their doors.

Hawaii's pineapple industry needs prompt assistance. We cannot wait 2, 3, or 5 years for another round of trade negotiations to be concluded, especially since there is no assurance such talks would end in our favor.

I am, therefore, proposing that the U.S. import duty on canned pineapple fruit, which is now ¾ cent a pound—technically 0.75 cents a pound—be changed to 35 percent ad valorem. This will bring the duty on imported canned pineapple fruit right into line with the existing import duty of 35 percent ad valorem on canned citrus fruits, canned apricots, and canned dates.

In terms of cents, the 35 percent ad valorem duty I am proposing on canned pineapple fruit imports would be the equivalent of 3.975 cents, or almost 4 cents a pound.

The column two rate—for countries not receiving most-favored-nation rates—would keep the same spread as presently exists between duties on imports from favored and not-favored nations.

My bill also increases the duty on concentrated pineapple juice imports from 5 cents a gallon to 35 cents a gallon, the same rate now applying to orange and other citrus concentrated juices.

The bill I submit today would place low-cost foreign pineapple on a par with Hawaiian pineapple in our domestic U.S. market.

I ask unanimous consent that the text of my bill be printed in the RECORD at this point and that the bill be referred to the appropriate committee. I hope that early hearings will be scheduled on this measure.

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

S. 714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) item 148.98 of the Tariff Schedules of the United States is amended—

(1) by striking out "0.75¢ per lb." in rate column numbered 1 and inserting in lieu thereof "35% ad val.". and

(2) by striking out "2¢ per lb." in rate column numbered 2 and inserting in lieu thereof "35% ad val.".

(b) Schedule 1, part 9, subpart B of such Schedules is amended by striking out item 148.99.

SEC. 2. Item 165.46 of the Tariff Schedules of the United States is amended by striking out "5¢ per gal." in rate column numbered 1 and inserting in lieu thereof "35¢ per gal.".

SEC. 3. The amendments made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of the enactment of this Act.

By Mr. SCHWEIKER:

S. 715. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the amounts of lead and cadmium which may be released from glazed ceramic or enamel dinnerware. Referred to the Committee on Labor and Public Welfare.

LEAD IN DINNERWARE BILL

Mr. SCHWEIKER. Mr. President, I introduce a bill to expand the authority of the Food and Drug Administration to protect the public from lead poisoning from improperly made ceramic or enamel dinnerware.

I have long been interested in the potentially dangerous effect of lead on the human body, particularly as this problem relates to lead-based paint.

Through the work which was done in developing the lead-based paint program, I became aware of the potential hazards of lead which might be taken into the body from other sources. I viewed with great concern reports that quantities of lead would contaminate food contained in certain types of dishes which have not been properly made.

In early 1971 for example, a 17-month-old Philadelphia child died as a direct result of drinking from a container which was found by FDA to leach extremely high levels of lead from the container into the liquid—levels of lead which greatly exceed industry standards.

Last year, my interest in this matter was stimulated further by an NBC television program, "Chronolog," which did a special report on the hazards of lead to humans from these products. The NBC-TV "Chronolog" program pointed out very clearly the dangers of this kind of lead poisoning. Tests done on this program on products purchased from various dealers in such goods indicated that certain types of improperly made dinnerware can cause lead poisoning.

NBC-TV contributed an important public service in focusing the attention of the American people on this lead poisoning problem.

Let me emphasize that on the whole the domestic dinnerware industry is producing safe dinnerware, earthenware, and stoneware products, and I am advised that many producers have completely removed lead and cadmium from their manufacturing processes.

The problem is with some marginal pottery shops and foreign imports.

Last year I introduced a bill identical to one introduced in the other body by Congressman FRANK HORTON of New York. Unfortunately, this legislation was not enacted during the 92d Congress. The bill which I introduce today and which Congressman HORTON is introducing in the House, is similar to the bill we introduced last year and contains certain additions which will increase the scope and effectiveness of its protection. This legislation will affect those products which do not meet safety standards and will be a major step in insuring that all dinnerware on the market is safe.

Back in the 1930's the U.S. Potters Association became concerned about this problem. In 1969 the potters and FDA agreed to standards governing the release of lead and cadmium in the foods from dinnerware. At the present time, less than 1 part per million lead is released into food by most products made by legitimate manufacturers. The Potters Association tests the goods, issues seals of compliance, and submits reports to the FDA.

The problem is that many marginal shops and foreign producers are not subject to the tests. My bill would cover virtually all dinnerware products made in the United States and all imports.

Here is what my bill does:

The Secretary of HEW is required to use the so-called atomic absorption test, with maximum levels of seven parts per million of lead and 0.5 parts per million cadmium. The Secretary may subsequently make recommendations to Congress for changes in the test.

Establishes labeling requirements so that each package of dinnerware bears name and place of business of the manufacturer or importer, to assist consumers in determining whether their dinnerware is part of a recall campaign.

Requires the Secretary to establish a procedure for certifying that dinnerware has passed the safety test, and requires the manufacturer to display certification on the package.

Preempts less restrictive State or local laws.

Adds "dinnerware" as a specific category subject to regulation under the Federal Food, Drug, and Cosmetic Act.

Adds a section prohibiting the manufacture or sale in interstate commerce, or in a manner affecting interstate commerce, or the importation into the United States, of dinnerware which does not meet the test.

Makes dinnerware subject to seizure by the FDA.

Adds recordkeeping requirements as to where such goods are shipped in interstate commerce.

Permits FDA to inspect manufacturers' plants.

Makes imported dinnerware subject to the act.

Applies to dinnerware manufactured 120 days after enactment.

Requires FDA to undertake an educational program to alert the public to the dangers of lead-releasing dinnerware and to inform them of the provisions of the act.

This bill enlarges FDA authority in several important ways, including:

A new labeling requirement that each package of dinnerware be labeled so that, should FDA have to recall specific products, the information will be more available to consumers and distributors in determining whether their dinnerware is

subject to the recall. The bill requires notice of certification of the dinnerware having met the FDA safety test to be displayed on the package. This will prevent the distribution of unsafe dinnerware.

The bill allows the FDA to get into this problem at the manufacturing stage. Present legislation limits FDA involvement to the time when such products are in interstate commerce.

The bill broadens the definition of interstate commerce to include situations affecting interstate commerce.

It specifically includes dinnerware under the Federal Food, Drug and Cosmetic Act. At the present time, FDA authority is somewhat unclear. This bill would make absolutely clear that dinnerware is subject to the provisions of the act.

In summary, it clarifies and strengthens existing FDA authority in this area and adds new authority.

I believe this legislation represents another significant forward step in our fight on lead poisoning. Back in 1970, I introduced S. 3941, a bill to provide civil penalties for the use of lead-based paint in the use of certain dwellings. Although this bill was not enacted into law, I was gratified when the prohibition of the use of lead-based paint was adopted as an amendment to the Housing and Urban Development Act of 1970.

I also strongly supported the Lead-Based Paint Poisoning Prevention Act which President Nixon signed into law on January 13, 1971.

Just recently, I joined with Senator KENNEDY in sponsoring a bill, S. 607, to continue the lead-paint program and provide more funds for it.

We are making progress in the fight against the tragedy of lead-based-paint poisoning. We must continue this battle, but at the same time recognize serious dangers of lead from other sources. This bill, which adds to and strengthens the Federal Government's authority in this area, can allow us to take another giant step in this direction.

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

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

S. 715

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

REGULATION OF THE LEACHING OF LEAD AND CADMIUM FROM DINNERWARE

SECTION 1. Chapter IV of the Federal Food, Drug and Cosmetic Act is amended by adding after section 409 (21 U.S.C. 348) the following new section:

"REGULATION OF THE LEACHING OF LEAD AND CADMIUM FROM DINNERWARE

"SEC. 410. (a) This section shall establish the maximum quantity of lead and the maximum quantity of cadmium (and the manner of testing therefore) which may be released from dinnerware. The maximum quantities of lead and cadmium (and the manner of testing therefore), established by this section shall take effect on the ninetieth day after enactment of this section.

"(b) The maximum quantities of lead and cadmium and manner of testing therefor shall be"

"(1) An article of dinnerware, upon being subjected to the test described in paragraph (2), may release a maximum of 7 parts per million of lead and a maximum of 0.5 parts per million of cadmium, calculated in the manner described in paragraph (2)(C).

"(2) Dinnerware shall be tested for release of lead in the following manner:

"(A) APPARATUS AND REAGENTS.—

"(i) ATOMIC ABSORPTION SPECTROMETER.—Perkin-Elmer Model 303 or equivalent, with the following operating conditions: wavelength 218 mm; slit 4; lead hollow cathode lamp; air acetylene burner (0.5 x 110 mm slit) with supply of air at 60 psi (flow meter 9) and acetylene at 10 psi (flow meter 9) for an aspiration rate of 0.8 ml/minute.

(ii) STANDARD SOLUTION.—Any soluble lead salt shall be dissolved in 4% acetic acid to a lead concentration of 1 mg/ml. Dilute this standard stock solution with 4% acetic acid to obtain working standards with final concentrations of 10, 20, 30 and 40 micrograms of lead per ml.

"(B) PREPARATION OF SAMPLE (LEACHING) SOLUTION.—Six units of each sample shall be individually analyzed. Prior to analysis, all vessels shall be washed with household detergent, followed by a thorough rinse with distilled water. Discard the water and dry the unit; then fill each unit with 4% acetic acid so that the acid comes within ¼" of overflowing the container. Measure volume of acid, by difference, as the units are being filled (use graduates or burets calibrated "to deliver"). Cover each unit with a watch glass or other suitable cover, being sure not to allow the cover to come in contact with the acid. Let stand at room temperature for 24 hours.

"(C) DETERMINATION.—Stir sample (leaching) solution and determine absorbance by atomic absorption spectrometry, diluting if required with 4% acetic acid. Determine the absorbance of the standard solutions in a similar fashion. Prepare a standard curve of absorbance versus concentration. Determine the amount of lead from the standard curve. Calculate results as micrograms of lead/ml of leaching solution.

"(D) A sample is considered violative if the average of the six units examined contains 7.0 micrograms lead/ml of leaching solution or more.

"(3) Dinnerware shall be tested for release of cadmium in the following manner:

"(A) APPARATUS AND REAGENTS—

(a) ATOMIC ABSORPTION SPECTROMETER.—Perkin-Elmer Model 303 or equivalent, with the following operating conditions: wavelength 228.8 mm; slit 4; cadmium hollow cathode lamp; air acetylene burner (0.5×110 mm slit) with supply of air at 60 psi (flow meter 9.0) and acetylene at 10 psi (flow meter 9.0) for an aspiration rate of 0.8 ml/minute.

(b) STANDARD SOLUTION.—Any soluble cadmium salt shall be dissolved in 4% acetic acid to a cadmium concentration of 0.1 mg/ml. Dilute this standard stock solution with 4% acetic acid to obtain working standards with final concentrations of 1, 2, 3 and 4 micrograms of cadmium per ml.

"(B) PREPARATION OF SAMPLE (LEACHING) SOLUTION.—Six units of each sample shall be individually analyzed. Prior to analysis, all vessels shall be washed with household detergent, followed by a thorough rinse with distilled water. Discard the water and dry the unit; then fill each unit with 4% acetic acid so that the acid comes within ¼" of overflowing the container. Measure the volume of acid, by difference, as the units are being filled (use graduates or burets calibrated "to deliver"). Cover each unit with a watch glass or other suitable cover, being sure not to allow the cover to come in contact with the acid. Let stand at room temperature for 24 hours.

"(C) DETERMINATION.—Stir sample (leaching) solution and determine absorbance by atomic absorption spectrometry, diluting if required with 4% acetic acid. Determine the absorbance of the standard solutions in a similar fashion. Prepare a standard curve of absorbance versus concentration. Prepare a standard curve of absorbance versus concentration. Determine the amount of cadmium from the standard curve. Calculate results as micrograms of cadmium/ml of leaching solution.

"(D) A sample is considered violative if the average of six units examined contains 0.5 ug cadmium/ml of leaching solution or more.

"(c) Where necessary or appropriate for the safety of the public, the Secretary may make recommendations to Congress for the amendment of such maximum quantities and the manner of testing therefor. Such recommendations shall be based on the best available scientific data and shall insure the safety of the public by reducing its exposure to lead and cadmium.

"(d) The manufacturer (or importer) shall affix to each package containing dinnerware he manufactures (or imports) a label, in accordance with regulations established by the Secretary, which shows the name and principal place of business of the manufacturer, or, if it is manufactured outside of the United States, the name and principal place of business of the manufacturer and of the importer.

Certification

"(e) The manufacture for sale, the sale, or offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported, in commerce, or the sale or delivery after a sale or shipment in commerce, dinnerware subject to this Act which has not been certified by the manufacturer or importer thereof to meet the requirements of the applicable standards or other regulations issued or amended under the provisions of this Act, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

"(1) The manufacturer (or importer) shall affix to each package containing dinnerware he manufacturers (or imports) a label, in accordance with regulations established by the Secretary, which certifies that the contents meet the requirement of this Act with respect to maximum quantities of lead and cadmium."

Preemption of State laws

"(f) The provisions of this Act with respect to maximum quantities of lead and cadmium shall preempt all provisions of State or local law which are less restrictive, as determined by the Secretary, than those contained in this Act."

Conforming amendments

SEC. 2. (a) Section 201 of such Act (relating to definitions) (21 U.S.C. 321) is amended by adding after paragraph (x) the following:

"(y) The term 'dinnerware' means any dishware, composed in whole or in part of glazed ceramics or enamels, which is for use or which may be used in storing, preparing or serving any food, or beverage."

(b) Section 301 of such Act (relating to prohibited acts) (21 U.S.C. 331) is amended by adding after paragraph (p) the following:

"(q) The introduction or delivery for introduction into interstate commerce by the manufacturer (or importer) in the course of his business of any dinnerware which releases lead or cadmium in excess of the quantities permitted under section 410 or which is not labeled in accordance with the requirements of section 410(d) and section 410(e)".

(c) Paragraph (1) of section 304(a) of

such Act (relating to seizure) (21 U.S.C. 334 (a)) is amended by inserting after "cosmetic that is adulterated or misbranded" the following: ", or any dinnerware which releases lead or cadmium in excess of the quantities permitted under section 410 or which is not labeled in accordance with the requirements of section 410(d) and section 410(e),".

(d) Section 703 of such Act (relating to records of interstate shipment) (21 U.S.C. 373) is amended by striking out "or cosmetics" each place where it occurs, and inserting in lieu thereof "cosmetics, or dinnerware", and by striking out "or cosmetic" each place where it occurs, and inserting in lieu thereof "cosmetic, or dinnerware".

(e) Clause (1) of the first sentence of section 704(a) of such Act (relating to inspection) (21 U.S.C. 374(a)) is amended by striking out "or cosmetics" each place where it occurs, and inserting in lieu thereof "cosmetics, or dinnerware".

(f) The first sentence of section 704(b) of such Act (relating to written reports of inspection to owners) (21 U.S.C. 374(b)) is amended by inserting after "indicate that" "any dinnerware in such establishment releases lead or cadmium in excess of the quantities permitted under section 410 or is not labeled in accordance with the requirements of section 410(d) and section 410(e), or that".

(g) Section 705(b) of such Act (relating to publicity) (21 U.S.C. 375(b)) is amended by striking out "or cosmetics" after "food, drugs, devices," and inserting in lieu thereof "cosmetics, or dinnerware".

(h) The first sentence of section 801(a) of such Act (relating to samples of imports) (21 U.S.C. 381(a)) is amended by striking out "and cosmetics" after "samples of food, drugs, devices," and inserting in lieu thereof "cosmetics, and dinnerware".

(i) Clause (3) of the third sentence (relating to refusal of admission of imports) of section 801(a) of such Act (21 U.S.C. 381(a)) is amended to read as follows: "(3) such article is adulterated, misbranded, in violation of section 505 of this Act, releases lead or cadmium in excess of the quantities permitted under section 410, or is not labeled in accordance with the requirements of section 410(d), and section 410(e),".

(j) The second sentence of section 801(b) of such Act (relating to disposition of refused articles) (21 U.S.C. 381(b)) is amended by striking out "or cosmetic," after "other than a food, drug, device," and inserting in lieu thereof "cosmetic, or article of dinnerware,".

EFFECTIVE DATE

SEC. 3. (a) Section 410 of the Federal Food, Drug, and Cosmetic Act (as added by section 1 of this Act), section 201(y) of the Federal Food, Drug, and Cosmetic Act (as added by section 2(a) of this Act), and the amendments of the Federal Food, Drug, and Cosmetic Act made by sections 2(d) through 2(j) of this Act shall take effect on the date of the enactment of this Act.

(b) In the case of dinnerware manufactured or imported on or after the ninetieth day after the date of the enactment of this Act, section 301(q) of the Federal Food, Drug, and Cosmetic Act (as added by section 2(b) of this Act) and the amendment of section 304(a) of the Federal Food, Drug, and Cosmetic Act made by section 2(c) of this Act shall take effect on the ninetieth day after the date of the enactment of this Act.

(c) In the case of dinnerware manufactured or imported before the ninetieth day after the date of the enactment of this Act, and introduced or delivered for introduction into interstate commerce on or after the ninetieth day after the date of the enactment of this Act, which releases lead or cadmium in excess of the quantities permitted under section 410 of the Federal Food, Drug, and Cosmetic Act (as added by section 1 of this Act), section 301(q) of the Federal Food, Drug, and Cosmetic Act (as added by section 2(b) of this Act, and the amendment of section 304 (a) of the Federal Food, Drug, and Cosmetic Act made by section 2(c) of this Act, shall take effect on the ninetieth day after the date of the enactment of this Act, unless each article of such dinnerware—

(1) bears a permanent, conspicuous, and easily legible warning label,

(2) such label states that the article releases lead or cadmium in excess of the quantities permitted under section 410 of the Federal Food, Drug, and Cosmetic Act (as added by section 1 of this Act), and

(3) such label lists the uses of such article to avoid so as to prevent the release of lead or cadmium into food or beverages.

If such dinnerware is labeled in accordance with paragraphs (1) through (3), then such sections shall not take effect with regard to such dinnerware.

EDUCATIONAL PROGRAM

SEC. 4. The Food and Drug Administration shall undertake a significant educational program to alert the public to the dangers of lead and cadmium released from dinnerware, and to inform them of the provisions of this Act.

By Mr. HRUSKA (for himself, Mr. MCCLELLAN, Mr. BURDICK, Mr. FONG, Mr. GURNEY, Mr. HART, Mr. MATHIAS, Mr. SCOTT of Pennsylvania, and Mr. TUNNEY):

S. 716. A bill to amend chapter 235 of title 18, United States Code, to provide for the appellate review of sentences imposed in criminal cases arising in the district courts of the United States. Referred to the Committee on the Judiciary.

APPELLATE REVIEW OF CRIMINAL SENTENCES

Mr. HRUSKA. Mr. President, S. 716, a bill to amend chapter 235 of title 18, United States Code, to provide for the appellate review of sentences imposed in criminal cases arising in the District Courts of the United States. I ask unanimous consent that the full text of the bill and certain related exhibits be printed in the RECORD immediately following my remarks.

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

Mr. HRUSKA. Mr. President, this legislation is identical to S. 2228 and S. 1501 which I introduced respectively in the 92d and 91st Congresses, and to S. 1540 which was passed unanimously by the Senate in the 90th Congress. Broadly outlined, it would authorize the appeal of an "excessive" criminal sentence imposed by a U.S. District Court.

On January 12, 1973, the senior Senator from Arkansas, Mr. MCCLELLAN, introduced S. 1, the massive "Criminal Justice Codification Revision and Reform Act of 1973." Along with Senator ERVIN, I was pleased to join the distinguished chairman of the Subcommittee on Criminal Laws and Procedures as a cosponsor of this "study bill" which will, we hope, soon be developed to supplant our current body of Federal criminal law.

When Senator MCCLELLAN introduced S. 1, he addressed himself to the question of appellate review of criminal sentences with the following words:

Whether appellate review should be authorized on a broader scope, as the Senator from Nebraska (Mr. Hruska) has long advocated, is a question that will merit close scrutiny in the coming legislative hearings. Certainly, the evidence of sentence disparity presented to the Subcommittee calls for some close attention. I, for one, am beginning to believe that some sort of review is needed in this area, and it is my intention to hold additional hearings on this vital issue soon. (*Congressional Record*, January 12, 1973, p. 993)

Hopefully, the bill which I have introduced today can be utilized by the Criminal Laws Subcommittee and engrafted onto S. 1 in appropriate form.

S. 1 had its genesis in the final report of the National Commission on Reform of Federal Criminal Laws. This Senator was very privileged to have been a member of that commission, along with Senators MCCLELLAN and ERVIN.

The final report of this group embraced the concept of appellate review of sentencing with this suggested amendment to title 28:

§ 1291. The courts of appeal shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands, except where direct review may be held in the Supreme Court. Such review shall in criminal cases include the power to review the sentence and to modify or set it aside for further proceedings.

This simple amendment reflected the Commission's view that there should be some form of appellate review of sentences. It did not set forth the form that the review should take nor the contours of its jurisdiction. However, the entire sentencing scheme recommended by the Commission was predicated on the idea that appellate review of sentences would be included in the revised criminal code.

However, in the context of S. 1, appellate review is recognized only with respect to sentences for dangerous special offenders, section 3–11E3 in accord with current law 18 U.S.C. section 3576, added by Public Law 91–452, the Organized Crime Control Act of 1970.

The bill which I have introduced will correct one of the greatest single injustices existing in our Federal criminal process today: The lack of authority and machinery to review unreasonable sentences. Extensive studies have shown that unreasonably harsh sentences are imposed on many individuals who stand convicted of a violation of our laws. Many of these unreasonable sentences are imposed on individuals with fine families and good backgrounds, on individuals who strayed from the path on a single occasion and under trying circumstances, on individuals whose only offense was minor in comparison to those of others who have yet received far lesser sentences.

The problem of disparity of sentences has concerned Congress, bar associations and legal societies, students, and workers in the field of penology and, indeed, the executive branch of our Government and the courts for many years.

Putting aside what may be the ultimate or most desirable goals of a rational and humane sentence, we have in

modern times been receding from the practice of enacting statutes calling for a mandatory fixed sentence. A greater number of our criminal laws now provide for a wide range of permissible sentences. The practical effect of this is obvious. As the final determining factor in the sentence to be imposed, the judge's discretionary power becomes increasingly important.

By and large the wisdom of this policy of delegating the function to the trial judge has been clearly demonstrated. Our district judges are exceedingly conscientious, knowledgeable, and experienced. They are best able, informed, and qualified to deal fairly with the convicted defendant. However, they are the first to recognize the inadequacies in the present system. The exercise of judgment in this delicate area is not easy.

The responsibility for determining the proper sentence is so great as to justify and warrant the means of review. There is little wonder that judges have openly commented on the incongruity of the situation that the power to impose a sentence is the only discretionary power vested in the Federal trial judge which is not subject to appeal.

A study of the Federal statutes and the interpretation given them by the courts establishes that no authority exists for an appellate review of the sentence imposed by the judge in a criminal case so as to determine whether the sentence is excessive. A sentence will be modified only when it is unauthorized by law as not being within the limits fixed by a valid statute.

In the 85th Congress the concern about the problem of sentence disparities brought about pioneering legislation: the Sentencing Act of 1958 which provided for institutes and joint councils on sentencing. Their value cannot be overestimated. The institutes have been described as giving "the Federal judges themselves an opportunity to assume the initiative in eliminating sentences which may appear biased, capricious, or the result of defective judgment."

However, this and other related legislation have not been a complete answer to the problem. The Judicial Conference of the United States rejected appellate review legislation in 1958, reconsidered it in 1961, and then approved appellate review legislation in 1964. When we review the actions of the Judicial Conference, it is logical to ask what caused such a substantial shift in judicial opinion. While a redraft of legislative proposals and increased interest in the problem may have played a part in this change, it is clear that the original objection of the Judicial Conference was to the principle of appellate review, and not the language of any particular bill. In retrospect, it seems that a consensus in favor of the principle did not develop until it became manifest that the problem of excessive sentences was not going to be resolved by the extensive use of the facilities provided in the Sentencing Act of 1958 or by other existing legislation.

Twelve years of experience under the act has demonstrated that such procedures and techniques are not enough.

Nor has indeterminate sentencing proven to be the answer to the problem. For various reasons, many judges have declined to impose indeterminate sentences, or have imposed such sentences only infrequently.

While I am quick to recognize that S. 1 eliminates many of the sentencing disparities and inequities heretofore visited upon criminal defendants in the Federal courts, it is also clear that any new sentencing scheme will not provide a talismanic cure for improper sentences which will be imposed by Federal courts.

To adequately cope with the problem of improper sentences—to correct injustices once they have occurred—the practice of appellate review is required.

Mr. President, excessive and disparate sentencing prevent the rehabilitation of those who have been unjustly sentenced, they contribute to disorder in our prisons, and they increase disrespect for our criminal process which weakens the moral fiber of our citizens and which can only result in increasing violations of our laws.

As Justice Potter Stewart wrote in 1958, prior to the time of his appointment to the Supreme Court of the United States:

> Justice is measured in many ways, but to a convicted criminal its surest measures lies in the fairness of the sentence he receives.

The fact that the overwhelming majority of defendants in our Federal courts are convicted by pleas of guilty or nolo contendere magnifies the importance of the sentencing process.

Mr. President, the real anomaly and injustice of the existing lack of review of sentences was pinpointed by the introductory statement of the tentative draft of the American Bar Association's Advisory Committee on Sentencing and Review, "Standards Relating to Appellate Review of Sentences" when it stated:

> One of the most striking ironies of the law involves a comparison of the methods for determining guilt and the methods of determining sentence. The guilt-determination process is hedged in with many rules of evidence, with many procedural rules, and, most importantly for present purposes, with a carefully structured system of appellate review designed to ferret out the slightest error. Yet in the vast majority of criminal convictions in this country—90 percent in some jurisdictions, 70 percent in others—the issue of guilt is not disputed.
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> What is disputed and, in many more than the guilty-plea cases alone, what is the only real issue at stake, is the question of appropriate punishment. But by comparison to the case with which the less-frequent problem of guilt is resolved, the protections in most jurisdictions surrounding the determination of sentence are indeed minuscle.

The protections in our Federal courts surrounding the determination of sentences are indeed miniscule and the situation must be corrected.

Mr. President, the concept of appellate review of sentences is not new to criminal law in the United States. Prior to 1891 the Federal Code provided a right to appeal a case on the basis of a disproportionately severe sentence. However, due to an oversight or inadvertence, a revision of the statute in 1891 did not mention sentences and the courts subsequently held that the power had been withdrawn by Congress.

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The situation that presently prevails in the Federal courts stands in marked contrast to the practice of 17 States, many foreign nations—including England and Canada—and our military courts. Indeed, the Federal jurisdiction is a singular example of an advanced system of jurisprudence that does not allow review of sentences.

Under our existing Federal law the determination of the sentence in a criminal case is the only matter that is left to the unsupervised discretion of the district judge before whom the case is pending. As long as the sentence imposed is within the statutory limits provided by the law, the sentence is unreviewable by appeal. No matter how excessive or unjust the sentence might be, an appellate court is legally powerless to modify it in any way.

This basic shortcoming in our criminal procedure has allowed serious inequities and disparities in the sentences which have been imposed.

Another unfortunate aspect of the present practice is that harsh and irrational sentences have often led appeal courts to reverse convictions on technical or minor points and on strained interpretations of the law, interpretations which may not serve justice and society in future cases.

A recent trilogy of cases in the Sixth

Circuit—*United States* v. *Daniels*, 446 F. 2d 967 (6th Cir. 1971); *United States* v. *Charles*, 6th Cir. No. 71-2061 (decided May 26, 1972); and *United States* v. *McKinney*, 6th Cir. No. 72-1480 (decided June 15, 1972)—points to the inane disposition sometimes made by well-meaning but misguided district courts and the resultant problems for our circuit courts. I might note that the Sixth Circuit—to my knowledge—stands alone in its attempts to mollify some extremely severe sentencing practices.

I do not suggest that this bill will solve all of the difficult problems in the determination of proper sentences. However, it will provide a significant tool for improving the sentencing process and for correcting unjust sentences when they are imposed.

Other phases of the work of trial judges are subject to appellate review and supervision. Only sentencing errors are immune to correction on appeal. The reasons for such a gap are for the most part historical. Such reasons are becoming irreconcilable with the standards of due process and are not in step with the need for a fair and just sentencing system.

This legislation will not allow one judge or a panel of judges, simply to substitute their judgment for that of the trial judge. Mere whim or fancy will be insufficient reason to modify the sentence. Only when it reasonably appears from the circumstances that a sentence was excessive will the appellate court act. Although the system will be made flexible by allowing review, it will remain the trial judge's duty to weigh the facts and appraise the defendant.

Valid reasons exist for variations in sentences for the same crime. Certainly a sentence which may be quite proper in a case involving one defendant and one set of circumstances may be grossly inadequate in dealing with the same offense committed by a different type of individual or under aggravated circumstances. But where the same crime has been committed by similar offenders under similar circumstances, the punishment should be reasonably uniform and just.

The determination of a proper sentence involves many considerations. Sentencing is not nor can it be reduced to an exact science. The exercise of sound judgment is an indispensable part of the process, but that does not justify arbitrary determinations. When judgments cannot be reconciled with reason, the appellate courts will be empowered to prevent a miscarriage of justice.

Mr. President, it is my hope that Congress will soon correct this injustice. I am particularly heartened by the support of my good friend, the senior Senator from Arkansas.

The hearings of the Subcommittee on Criminal Laws and Procedures on March 6, 7, and 8, relative to this bill, should explore the possibilities available with respect to appellate review and lay the necessary groundwork for subsequent committee action.

Submitted for inclusion in the RECORD pursuant to unanimous consent already granted, are the following exhibits:

First, report on the Institute Study of Sentencing in the Federal Courts, October 12, 1972. Law Enforcement Assistance Administration, U.S. Department of Justice.

Second, *United States* v. *McKinney*, 6th Cir. No. 72-1480 (dec. June 15, 1972).

Third, note, *United States* v. *Daniels*, 446 F. 2d 967 (6th Cir. 1971), appearing at 41 U. Cinn L Rev. pp. 195-205 (1972).

S. 716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 235 of title 18, United States Code, is amended by inserting immediately after section 3741 thereof the following new section:

"§ 3742. Appeal from sentence

"(a) An application for leave to appeal from the district court to the court of appeals the sentence of imprisonment or death imposed may be filed by a defendant with the clerk of the district court in any felony case in the following instances:

"(i) after a finding of guilt by a judge or jury, whether following a trial or the acceptance of a plea;

"(ii) after the revocation or modification of an order suspending the imposition or execution of a sentence or placing the defendant on probation;

"(iii) after a resentence under any other applicable provision of law.

"(b) Upon granting leave to appeal, the court of appeals may review the merits of the sentence imposed to determine whether it is excessive. This power shall be in addition to all other powers of review presently existing or hereafter conferred by law. If the application for leave to appeal is denied by the court of appeals, the decision shall be final and not subject to further judicial review.

"(c) Upon consideration of the appeal, the court of appeals may dismiss the appeal, affirm, reduce, modify, vacate, or set aside the sentence imposed, remand the cause, and direct the entry of an appropriate sentence or order or direct such further proceedings to be had as may be required under the circumstances. If the sentence imposed is not affirmed or the appeal dismissed, the court of appeals shall state the reasons for its action. The defendant's sentence shall not be increased as a result of an appeal granted under this section.

"(d) The application for leave to appeal from sentence shall be regarded as a notice of appeal for all purposes, and the procedure for taking an appeal under this section shall follow the rules of procedure for an appeal to a court of appeals. A denial of the application for leave to appeal on the ground that the sentence imposed is excessive shall not prejudice any aspect of the appeal predicated on other grounds. If the application is granted all issues on appeal shall be heard together.

"(e) When an application for leave to appeal is filed, the clerk of the district court shall certify to the court of appeals such transcripts of the proceedings, records, reports, documents, and other information relating to the offense or offenses of the defendant and to the sentence imposed upon him as the court of appeals by rule or order may require. Any report or document contained in the record on appeal shall be available to the defendant only to the extent that it was in the district court. In each felony case in which sentence of imprisonment or death is imposed the judge shall state for the record his reasons for selecting that particular sentence.

"(f) When a judge has adopted the sentencing procedure set forth in section 4208 (b) of title 18, United States Code, an application for leave to appeal may only be filed after a judgment or order is entered by the judge following the completion of the study provided by such section.

"(g) The provisions of section 3568 of title 18, United States Code, shall be applicable to any defendant appealing under this section.

"(h) This section shall not be construed to confer or enlarge any right of a defendant to be released following his conviction pending a determination of his application for leave to appeal or pending an appeal under this section.

"(i) This section shall become effective six months after its approval and shall apply only to sentences imposed thereafter."

(b) The analysis of chapter 235 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3742. Appeal from sentence."

REPORT ON THE INSTITUTE STUDY OF SENTENCING IN THE FEDERAL DISTRICT COURTS

PURPOSE

The study was designed to investigate disparities among the Federal District Courts in type and length of sentence and to analyze the relationship between defendant characteristics and sentencing variations. The study also analyzed sentencing disparities within circuits, and their relationship to defendant characteristics.

BACKGROUND

In 1966, Congress created the National Commission on Reform of the Federal Criminal Laws to review and study the statutory and case law of the United States. The Commission was to develop recommendations to Congress for legislation which would improve the Federal System of criminal justice, including possible revisions, recodifications and repeals, as well as possible changes in the penalty structure.

The Commission submitted its recommendations to the President and the Congress in January, 1971, and hearings on the Commission's recommendations began in February, 1971 before the U.S. Senate Subcommittee on Criminal Law and Procedure.

The Administrative Office of United States Courts was requested to provide the Subcommittee with a report on the sentencing data which it collects and analyzes yearly from the 93 Federal District Courts. Early this year the Administrative Office sent to the Subcommittee its report covering the years 1967 through 1971. In March, the Subcommittee requested the National Institute to undertake an analysis of the sentencing data to determine whether there were any disparities in sentences among the Federal courts and, if so, their magnitude.

Shortly thereafter, the Institute initiated the Study of Sentencing in the Federal District Courts. Three preliminary reports were prepared for the Subcommittee before July, two specifically dealing with sentence disparity, and the third reporting on U.S. Probation Officer workloads. This Report summarizes the entire study's findings on sentence disparities.

STUDY OBJECTIVES

The Institute established three major objectives for the study: To provide basic information on sentencing variations among the Federal Courts—

(1) To Congress, to assist in the conduct of hearings on the Commission's recommendations for reform of the Federal Criminal Laws.

(2) To the Federal Courts, to increase their awareness of existing disparities.

(3) To the Federal Correctional Institutions and the U.S. Parole Board, to assist them in their efforts to develop more equitable procedures and practices.

DISCUSSION

Sentence disparity has been a subject of discussion and investigation by criminal justice professionals, both Federal and state, for many years. Correctional officials, in particular, have found that inequities in sentencing for the same crime between offenders with similar backgrounds may be a hindrance to rehabilitation.

Among the many suggested causes of sentence disparity are differences in the attitudes and behavior of judges and probation officers. In its Final Report, the National Commission on Reform of the Federal Criminal Laws recommends that the appellate review process be revised to include the review of sentences. Such a review could result in modified sentences, or in cases being set aside for further proceedings (see the Commission's Final Report, section 1291). The Final Report states that the American Bar Association has endorsed this recommendation.

Few will dispute that some sentencing variations are inevitable and not necessarily inappropriate in the exercise of judicial discretion. Such variations are not, therefore, disparities *per se*. However, inequitable and unreasonable variations can only create bitterness on the part of offenders and further complicate the rehabilitation process. There is also wide agreement that solutions are not easy, and that defendants' behavioral and background characteristics will vary to some degree among the circuits. Nevertheless, there is a need to attempt to eliminate extreme variation in the sentencing process. The sentencing information presented in this report, hopefully, will assist current and future efforts to do so, particularly in the Federal Courts.

It is important to note that this study does not attempt to establish the causes or suggest a cure for variations in type and length of sentences. The study examines the data only to find the extent of the variation and to ascertain how certain defendant characteristics are related to it.

The study did not have available all the physical, social and psychological characteristics that could influence the sentencing process. The background data furnished by the Administrative Office do not include information on defendant attitudes and general behavior and include only information on the age, race, sex and prior record of each defendant. In addition to these four variables, data on the type of legal counsel were available. Finally, sufficient data for 1971 were not available on the computer tape supplied by the Administrative Office. Hence, only 1967 through 1970 data were analyzed.

The Institute ran eight tests on the data, using the computer services of Group Operations, Inc. Three Automatic Interaction Detection (AID) tests were made that compared defendant characteristics to determine which were most highly associated with sentencing variations. Two chi-square tests were run to determine whether the type of sentence (prison or probation) and circuit of trial were independent. One of these tests analyzed the data by defendants prior records. Three one-way analysis of variance tests attempted to learn whether the mean sentence lengths of the 93 Federal District Courts were roughly the same and whether any variation was due to randomness only. One of these tests included defendant prior record as a parameter.

Ten major Federal crime categories were chosen for analysis. The number of convicted and sentenced defendants in these categories represented nearly half of all Federally sentenced defendants for the four years studied. The major findings are listed below, and the analysis and evaluation of the tests are discussed in the attached Report.

MAJOR FINDINGS

1. The study found that for each crime analyzed, the type of sentence (prison or probation) given defendants varies significantly among the districts and this significant variation was found in each prior record subset analyzed. Further, the type of sentence given defendants with *no* prior record varies as significantly among the districts as that for defendants with prior *prison* records, while the variation among the districts was significantly less for defendants with prior probation and suspended records and prior juvenile records. The crime of Auto Theft illustrates the extent of the variation: the range in average percentage of prison sentences among the circuits is 11% to 41%, for defendants with *no* prior record and 61% to 90%, for defendants with prior *prison* records.

2. The study found that for each crime analyzed, the average length of prison and probation sentences varies significantly among the 93 Federal District Courts. Narcotic Drug Violation illustrates the extent of the variation: average lengths of probation sentences among the circuits range from 28 to 48 months, and the average lengths of prison sentences range from 52 to 122 months. Further, for nearly every crime analyzed, the length of sentence given defendants with no prior record, prior prison record, and prior probation and suspended record varies significantly among the districts. For half of the crimes analyzed, the length of sentence given defendants with prior juvenile records varies significantly among the districts.

3. When the relationship between prior record and sentencing was analyzed, the study found substantial consistency *within* circuits for both type and length of sentence for each crime analyzed. Thus, for each crime, defendants with similar prior records tend to be treated similarly with regard to type and length of sentence. This consistency holds whether circuits give more (or fewer) prison sentences, and longer (or shorter) prison or probation sentences than the national averages. For example, defendants in the Third Circuit, regardless of prison record, were given fewer prison sentences, on the average, than the nationwide average, for all crimes except Selective Service and Marihuana Tax Act Violations.

In the case of Selective Service, the Third Circuit gave defendants consistently more prison sentences than the national average. Conversely, defendants in the Fifth Circuit, regardless of prior record, were given consistently more prison sentences, on the average, than the nationwide average, for all crimes except Income Tax Violation. For the latter, the Fifth Circuit consistently gave fewer prison sentences.

N. B., it was impossible to determine from available data whether a prior conviction was for a felony or a misdemeanor, or was obtained in a state or Federal court. Further, it was not possible to assess whether discriminatory factors affected previous sentences in other courts.

4. The study found for the Federal crimes analyzed that nationwide, regardless of circuit, defendants with certain background characteristics were more likely to receive prison sentences than others, for nearly every crime analyzed, Thus,

a. Men received prison sentences more often than women. In fact, the average prison percentages for men were nearly double those for women in eight of the ten crimes analyzed.

b. The Over 35 age group had higher prison percentages than the Between 21 and 35 age group, which in turn had higher prison percentages than the Under 21 group. The differences between the Under 21 and Between 21 and 35 age groups varied from 0 to 17 percentage points, for all but Selective Service. The differences between the Between 21 and 35 and the Over 35 age groups varied from 0 to 12 percentage points for all but Interstate Theft and Selective Service.

c. Defendants with appointed counsel had higher prison percentages than defendants with private counsel. The appointed and private counsel groups varied from 0 to 23 percentage points for all but Narcotic Drug Violation.

d. Black defendants had higher prison percentages than white defendants (N.B., in the Federal Court data, Puerto Rican and chicano defendants are classified as whites). The black and white groups varied from 2 to 23 percentage points for all but Transportation of Forged Securities and Income Tax Violation.

[No. 72-1480, U.S. Court of Appeals for the Sixth Circuit]

UNITED STATES VERSUS PHILIP WILLIAM MCKINNEY

ORDER

Before: Phillips, Chief Judge, Weick and Celebrezze, Circuit Judges.

We are now required to consider the third appeal of this case. In the first appeal, we affirmed the judgment of conviction but remanded for reconsideration of the maximum sentence of five years imposed on the defendant upon his conviction for refusing to be inducted into the armed forces. The reason for the remand was our finding that the sentence imposed was excessive. *United States v. McKinney*, 427 F. 2d 449 (1970). Upon the remand, the District Judge adhered to his sentence and the defendant again appealed therefrom to this Court. The District Court denied bail pending appeal. Upon consideration of the arguments and briefs in the second appeal, we were still of the view that the sentence was excessive and we remanded again for reconsideration of the sentence in the light of *United States v. Daniels*, 446 F.2d 967 (6th Cir. 1971), *United States v. McKinney*, — F.2d — (6th Cir. No. 71-1563, 1971). Upon the second remand, the District Judge for the second time, refused to reduce the sentence and the defendant appealed. He has been serving his sentence in prison since June 15, 1971.

It is our opinion that the five-year sentence imposed in accordance with the practice of the District Judge was not an individualized sentence, as required by *Williams v. New York*, 337 U.S. 241 (1949). The Court also took into account that defendant was responsible for delaying his induction in the Induction Center, and for delaying his trial and imprisonment by filing Motions and taking an appeal. Furthermore, the District Court seemed to resent our remanding for reconsideration of the sentence. A goodly portion of his remarks on the remands were devoted to a discussion of appellate review of sentences. It was the thesis of the District Court in effect, that he had absolute, uncontrollable and unreviewable discretion to impose any sentence he saw fit to impose so long as it did not exceed the statutory limit, and that an appellate court had no jurisdiction to do anything about it. He even mentioned that the heavier sentences imposed in his district brought fewer cases of Selective Service violation into court than in other districts in the Circuit where lighter sentences were imposed.

It is a well known fact that disparity in sentencing causes considerable resentment among prison inmates and it is made worse when the disparity exists in the same Circuit.

The defendant is a young married man with an infant son. He has no criminal record. His good reputation in the community where he resides was attested to by a number of persons and was uncontroverted.

Our problems with the sentencing procedures of the District Court for the Eastern District of Kentucky were again succinctly stated in the recent case of *United States v. Charles*, — F. 2d — (6th Cir. No. 71-2061) [dec. May 26, 1972]. In remanding for re-

consideration of the maximum sentence imposed in that case, we said:

"Yet, as we have had occasion to point out in the past, the Courts in one District within this Circuit have persistently disregarded this individual sentencing approach with respect to one category of offenses—violations of the Selective Service laws. With very rare exceptions, the judges in the Eastern District of Kentucky have consistently meted out five-year prison sentences to draft offenders regardless of the circumstances of the particular offender. We have had occasion to criticize this practice in the past. *United States v. Daniels,* 429 F. 2d 1273 (6th Cir. 1970); *United States v. Daniels,* 446 F. 2d 967 (6th Cir. 1971); *United States v. McKinney,* 427 F. 2d 449 (6th Cir. 1970); *United States v. McKinney,* (6th Cir. No. 71-1563, dec. Dec 17, 1971); we have not changed our policy on this matter."

The maximum sentence imposed by the District Judge in the present case and his persistent adherence thereto and refusal to change the same in the two remands constituted a gross abuse of discretion as well as a violation of our mandates.

And now coming to render the judgment which the District Court should have rendered, it is ordered, adjudged and decreed that the five-year sentence imposed by the District Court be modified and reduced to one year, and as soon as defendant has served one year under the original sentence as modified, allowing credit for statutory allowances, it is ordered that he shall be forthwith released from custody.

Entered by Order of the Court.

JAMES A. HIGGINS, *Clerk.*

[From the University of Cincinnati Law Review, Vol. 41]

UNITED STATES VERSUS DANIELS

(Criminal procedure—sentencing—appellate review of sentence—trial judge's abuse of discretion in sentencing a defendant is sufficient ground for a circuit court to review the trial judge's sentence and impose a lesser sentence.—*United States* v. *Daniels,* 446 F. 2d 967 (6th Cir. 1971)

Harry W. Daniels was granted conscientious objector status by his Selective Service Board and was ordered to report to the Central State Hospital at Anchorage, Kentucky, for civilian employment, as alternate service. However, his religious beliefs stemming from his membership in the Jehovah's Witnesses forbade him to obey an order of the draft board, although he would obey an order of a judicial body. Accordingly, he was convicted after jury trial before the United States District Court for the Eastern District of Kentucky for willingly and knowingly failing to comply with order of his local Selective Service Board.[1] The district judge sentenced him to five years in the federal penitentiary.

Daniels appealed to the Sixth Circuit from this decision on procedural grounds, but was turned down on both issues.[2] However, the court in a Per Curiam decision remanded the case to the district court to allow for the filing of a motion under Rule 35 of the Federal Rules of Criminal Procedure.[3] The Sixth Circuit suggested that the district judge suspend the sentence and grant probation on condition that appellant perform the same conscientious objector work under orders of the district court which he had refused to perform under orders of the Select Service Board.[4]

On remand, the district court refused to reduce or suspend its original five year sentence. Although the district trial judge noted that the pre-sentence report characterized Daniels as a well-behaved and well-mannered young man,[5] the trial judge felt compelled to give the maximum five year sentence because for as long as he had been on the bench (some thirty years) he had always given maximum sentences in cases of a refusal to obey an order of a local draft board. On appeal again to the Sixth Circuit on the sole issue of whether the district court had properly discharged its duty in imposing sentence upon the defendant, the Sixth Circuit, per Celebrezze, J., *held:* Reversed. The district court had failed to exercise its sound discretion in imposing the five year sentence and had therefore abused its discretion in sentencing the appellant. The court of appeals then imposed its own sentence of twenty-five months probation on appellant provided that he "perform civilian work contributing to the maintenance of the national health, safety or interest for a period of twenty-four (24) consecutive months."[6]

The *Daniels* case marks an acute departure from the general rule that there is no appellate review of sentences in the Federal system. The history of this rule dates back to the Act of 1891.[7] Prior to that act the circuit courts, under the Judicature Act of 1879[8] had statutory power to review and modify sentences, it has indicated, by way of * * * or unusual) or sentences which the circuit courts considered too severe.[9] But since the Act of 1891 did not expressly incorporate the sentence review section of the 1879 Act, the circuit courts held by way of implication that they no longer had sentence modification powers.[10] While the United States Supreme Court has never ruled directly on the specific issue of whether the courts of appeal have the power to review and modify sentences, it has indicated by way of strong dictum, that it feels that they lack such power.[11] However, some inroads have recently been made into the nearly iron-clad prohibition against appellate review of sentences.

The cases establishing these inroads are founded on rather limited grounds and can be divided into two distinct categories—where the sentence violated a constitutionally protected right of the defendant, and where the judge violated a statutory procedure in sentencing the defendant. The *Daniels* case develops a third category of review—where the trial judge grossly abused his discretion in sentencing the defendant.[12]

Constitutional grounds for review have generally been found where the defendant's right to appeal was jeopardized,[13] where the trial judge relied on false or improper information,[14] and where the defendant's right to trial by jury was impaired.[15] However, there are isolated instances where a case was remanded because the sentence would tend to infringe upon the defendant's first amendment right to free speech,[16] or where it would tend to be cruel and unusual punishment.[17] *United States v. Wiley*[18] is the lead case for vacating a sentence that tended to impair a defendant's right to jury trial. In *Wiley* the Seventh Circuit remanded the case for the stated reason that the trial judge had abused his discretion in sentencing the defendant to three years imprisonment. However, the court actually based its decision on evidence which indicated that the only reason for the sentence imposed by the trial court (which was harsher than that given his (co-felons) was that the defendant had elected to stand trial rather than plead guilty as did his accomplices. Thus, the harsher sentence put a penalty on the defendant's constitutional right to stand trial.

Besides denial of constitutional rights as grounds for review of sentences, some appellate courts have also relied on statutory procedural errors. In *Leach* v. *United States,*[19] the Court of Appeals for the District of Columbia vacated the sentence imposed upon the appellant because the trial judge had not ordered a mental examination of the defendant when there was ample evidence that such an examination of the defendant should have been made. The court of appeals found that Congress had given the district court no less than three statutes on which it could have ordered such a mental examination; it then held "that the sentencing judge should use some of the resources which Congress has provided and that he may not arbitrarily ignore the data properly obtained thereby."[20] While *Daniels* is the first case in which a federal court of appeals remanded a case purely for abuse of discretion, the idea itself is not new. In *Livers* v. *United States,*[21] decided in 1950, the Sixth Circuit suggested in dictum that there could be review of a sentence upon "a plain showing of gross abuse" in the trial judge's exercise of his discretion in sentencing.[22] But, in that case no such abuse was found, and, for twenty years, the Sixth Circuit did not further develop this concept. Then in 1970 the Sixth Circuit decided a series of three cases involving conscientious objectors, *United States* v. *McKinney,*[23] *United States* v. *Daniels,*[24] and *United States* v. *Griffin,*[25] which seemed to expand the review power of the court under its abuse of discretion doctrine. The United States District Court for the Eastern District of Kentucky sentenced all three defendants to five years imprisonment. On appeal, the Sixth Circuit affirmed all three convictions but remanded the cases for resentencing in light of its opinion which said that, under the circumstances, the sentences were excessive.[26]

The *Griffin* case was later dismissed on appeal to the Supreme Court on other grounds;[27] thus the district judge did not have an opportunity to resentence. However, *Daniels* and *McKinney* were sent back, and instead of taking the court of appeal's suggestion as to probation, the district judge reimposed the same five year sentence. Both cases were again appealed; in *Daniels* the Sixth Circuit imposed its own sentence and *McKinney* is still pending.[28]

In deciding that the district judge abused his discretion by reimposing the same sentence in *Daniels,* the court of appeals based its decision on three factors. The first factor was that the history of such an inflexible practice of always handing out a five year sentence in this type of situation contradicted "the judicially approved policy in favor of 'individualizing sentences' ".[29] The court cited *Williams* v. *New York*[30] as authority for "individualizing sentences" and then quoted at length from *Williams* v. *Oklahoma*[31] for further authority that an inflexible sentencing practice is an abuse of discretion:

"Necessarily, the exercise of a sound discretion in such a case required consideration of all the circumstances of the crime for '(t)he belief no longer prevails that every offense in a like legal category calls for an identical punishment (without regard to the past life and habits of a particular offender).' . . . In discharging his duty of imposing a proper sentence, the sentencing judge is authorized, if not required, to consider all of the mitigating and aggravating circumstances involved in the crime."[32]

The second factor on which the Sixth Circuit based its opinion was that Congress did not intend every violation under 50 U.S.C. App. Section 462 (which appellant was convicted under) to be punished by the maximum five-year sentence which it permits. Rather, by implied legislative will Congress intended that a lesser sentence be imposed "in situations where there are appropriate mitigating circumstances."[33] This Congressional intent can be found in the wording of the statute which reads that violation shall "be punished by imprisonment *for not more than* five years or a fine *of not more than* $10,000."[34] (emphasis added). Thus, the district court's mechanical imposition of a five-year sentence in each case defied

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Footnotes at end of article.

Congress' implied legislative will to impose a lesser sentence where appropriate.

Finally, the court found that the trial judge had failed to sentence the appellant in accordance with the basic considerations of modern penology that the Supreme Court in *Williams* v. *New York*,[35] had cited with much approval. The court outlined those considerations as: "(a) The reformation of the offender, (b) the protection of society, (c) the disciplining of the wrongdoer, and (d) the deterrence of others from committing like offenses." [36] Since the court of appeals did not believe that any of these goals would be served by a five-year sentence in this case, the court concluded that the trial judge had completely ignored them, thus abusing his discretion in sentencing the appellant.

With regard to the Sixth Circuit's specific grounds for finding abuse of discretion in this case, it seems that the court was not only justified in developing this new pure abuse of discretion theory but also in its application here. When the Supreme Court in *Williams* v. *New York* [37] discussed specific guidelines for sentencing, and again later in *William* v. *Oklahoma*,[38] it was firmly expressing itself on the subject, and while it did not make a positive command to lower federal courts to follow this guideline, it did make it apparent that it felt those considerations should be controlling. Thus, the Sixth Circuit in *Daniels* was merely following the Supreme Court's implied command to insure that these sentencing factors were being given due regard in the district courts. Its application of that implied command is justified in this particular case because of the district judge's repeated and inflexible procedure in sentencing conscientious objectors as indicated not only by the judge's own remarks, but by his record as well.[39]

By relying on *Williams v. New York* [40] and *Williams v. Oklahoma*,[41] the Court found a ground that would give some meaning to the dictum it had earlier used in *Livers v. United States*,[42] when it declared that there would be appellate review of sentencing upon "a plain showing of gross abuse." [43] Until *Daniels*, federal appellate courts were reluctant to find abuse of discretion on which to review a sentence unless they also found some possible constitutional or statutory violation.[44] The *Daniels* case may lead the way for other circuit courts to develop the heretofore undeveloped concept of pure abuse of discretion as a means for sentence review. It can do this in two ways: first, the specific grounds on which the *Daniels* court found abuse of discretion—complete disregard for the particular individual involved and the general disregard of modern sentencing principles—may be used by other courts; secondly, it may lead courts into further developing the theory of pure abuse of discretion as a means for sentence review. Other possible grounds that could be used are a district judge's open hostility toward a particular defendant, or his failure to fully familiarize himself with the background of the defendant.[45]

The *Daniels* case is also unique in that the Sixth Circuit did not merely remand the case to the district court for resentencing, but instead, imposed its own sentence directly upon the appellant. This action flies directly in the fact of prior procedures and case law.

The Ninth Circuit in *Pependrea v. United States* [46] outlined the procedure to be used on any remand for sentence:

"While sentences here are severe (two, twenty year sentences to run consecutively) this court *is without authority to consider any reduction or modification.* Any petition for reduction of sentence may be directed to the trial court for its consideration, pursuant to rule 35 of the Federal Rules of Criminal Procedure . . ." [47] (emphasis added).

This procedure has been rigidly followed in every case except in the present case, contempt cases,[48] and in two other minor exceptions.[49]

The *Daniels* court was justified in imposing its own sentence in this case because of the district court's repeated refusal to heed the Sixth Circuit's suggestion in not only this case but in others as well.[50] Without being able to impose its own sentence, the court of appeals would be left with the disturbing situation of reviewing and remanding a case for an obvious abuse of discretion in sentencing, but being entirely unable to correct the situation, even though it had directed its resolution. While the court cited no authority for imposing its own sentence, proper reliance could be based either upon its supervisory power over the district courts [51] or upon Title 28 U.S.C. Section 2106.[52] Section 2106 provides:

"The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgments, decree or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree or order, or require such further proceedings to be had *as may be just under the circumstances.*" (Emphasis added.)

It should be noted, however, that this statute is the present day version of the 1891 statute [53] which did not expressly include the provision in the 1879 statute [54] that gave federal appellate courts the power to review and sentence.[55] And, reliance on either the supervisory power or section 2106 for such action has never been expressly approved of by the Supreme Court, and thus, the Sixth Circuit's power to impose its own sentence seems somewhat questionable.

Unfortunately, for those who favor appellate review of sentencing within the federal system,[56] the approach used by the court in *Daniels* does not appear to be the ultimate solution to the problem of reviewing excessive but legal—within the statutory limits established by Congress—sentences. The case is not a satisfactory solution because *Daniels* can quite easily be limited to its unusual fact situation and because an interpretation of section 2106 or the Court's supervisory powers without express Congressional grant to review sentences might well lead to strained relations between the district courts and the courts of appeal. District judges are very jealous of their discretionary power in sentencing defendants [57] and resent any encroachment upon that power by the courts of of appeals.[58] In order to preserve harmony between the district and circuit courts and to provide for general appellate review of sentencing, it appears that Congress must give express power to the courts of appeal to review sentences. With express Congressional power to review sentences, the district courts will be more tolerant of the circuit court's action in this area. Without this power, the district courts will not only question the sentence that might be imposed, but also the authority of the court to even impose such a sentence. Such a questioning of authority can only lead to the long drawn-out and time consuming procedure of remanding, resentencing, that occurred in the *Daniels* case.

Furthermore, the fact is that the circuit courts are reviewing sentences and while not imposing their own sentence after such review, they are vacating sentences that are otherwise legally imposed and remanding them for resentence.[59] In this area courts will continue to find ways around the no-review rule, oftentimes leading themselves into inescapable corners.[60] The best solution would be for Congress to grant the power to the circuit Courts and develop realistic and effective rules regarding sentence review instead of the hodge-podge that is now in operation.[61]

Currently there is a bill in the Senate [62] (now in the Judiciary Committee) that would give the courts of appeal express power to review sentences upon an application for leave to appeal from the district courts. Under this proposed bill, if the court of appeals denies the application for leave to appeal, its decision is final. If the leave is granted, the court of appeals has full power to review the merits and impose its own sentence, provided that it cannot impose an increased sentence upon the defendant. Curiously enough the provision giving the courts of appeal the power to impose its own sentence is almost identical with the current section 2106 that has been so long interpreted as not allowing the federal appellate courts to review and impose sentences on appeal.[63] The bill is a compromise between those claiming that there should be an appeal as of right for sentence review and those who claim that any provision for appeal of sentence will flood the courts of appeal with frivolous appeals.[64] On the whole, the bill appears to be the best solution for providing for effective and efficient review of sentences.

Although this bill has been introduced in past sessions of Congress and died each time in the Senate Judiciary Committee,[65] there seems to be more hope for its passage this time because of the increased public and legislative interest in prison and judicial reform (as indicated by the reaction after the recent riot in Attica and other prisons). One of the major grievances of prisoners is the often complete disparity between sentences given to similar convicts for similar crimes.[66] Appellate review of sentencing will help eliminate such offensive disparities.

OSCAR R. LONG.

FOOTNOTES

[1] 50 U.S.C.A. App. § 462 (1967).

[2] United States v. Daniels, 429 F.2d. 1273 (6th Cir. 1970).

[3] FED. R. CRIM. P. 35 provides:

Correction or Reduction of Sentence. The court may correct an illegal sentence at any time. The court may reduce a sentence within 60 days after the sentence is imposed, or within 60 days after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within 60 days after receipt of an order of the Supreme Court denying an application for a writ of certiorari.

[4] 429 F.2d 1273, 1274 (6th Cir. 1970).

[5] The district court stated that the presentence report revealed that the Appellant was "a very competent and well-behaved person and a good citizen" and "of apparent model behavior." Moreover, the district court agreed with Appellant's counsel's observations that Appellant had proved himself to be an utmost sincere and conscientious and very honest individual . . . with an "excellent" record in his "high school" and "community."

United States v. Daniels, 446 F.2d 967, 968 n. 2 (6th Cir. 1971).

[6] The full order provides:

It is adjudged that the defendant is guilty as charged and convicted.

It is adjudged the imposition of sentence is hereby suspended and the defendant is placed on probation for a period of Twenty-five (25) months,

It is further ordered that during the twenty-five month period of probation the defendant shall perform civilian work contributing to the maintenance of the national health, safety or interest for a period of twenty-four (24) consecutive months less the time already served in confinement as determined by the Probation Department.

It is further ordered that during the period of probation the defendant shall conduct himself as a law-abiding industrious citizen and observe such conditions of probation as the Court may prescribe. Otherwise the defendant may be brought before the

Court for violation of the Court's orders. United States v. Daniels, 446 F.2d 967, 972–73 (6th Cir. 1971).

[7] Act of March 3, 1891, ch. 517, 26 Stat. 826.

[8] Act of March 3, 1879, ch. 176 § 1, 20 Stat. 354.

[9] *See, e.g.*, United States v. Wynn, 11 F. 57 (C.C.E.D. Mo. 1882); Bates v. United States, 10 F 92 (C.C.N.D. Ill. 1881).

[10] *See, e.g.*, Rosenberg v. United States, 195 F.2d 583, 607–08 (2d Cir.), *cert. denied*, 344 U.S. 838 (1952); Beckett v. United States, 84 F.2d 731, 732–33 (6th Cir. 1936); Gurera v. United States 40 F.2d 338, 340–41 (8th Cir. 1930); Freeman v. United States, 243 F. 353, 357 (9th Cir. 1917). *But see* Ballew v. United States, 160 U.S. 187, 198–99 (1895), and Hanley v. United States, 123 F. 849, 854 (2d Cir. 1903), which suggest that the statutory powers given in the 1879 Act to circuit courts had been incorporated by reference in the 1891 Act. Federal appellate courts do, however, have the power to review a sentence of criminal contempt. *See* note 48 *infra*.

[11] *See* Gore v. United States, 357 U.S. 386, 393 (1958); Rosenberg v. United States, 344 U.S. 889, 890 (1952) (denying petition for rehearing) (Frankfurter, J., concurring); Blockburger v. United States, 284 U.S. 299, 305 (1931).

[12] Although some federal courts of appeal have previously used the language, "abuse of discretion," when remanding a case for resentencing, the *Daniels* case marks the first time that a case was remanded solely for abuse of discretion reasons. In the other cases where the language was used the court always found some specific constitutional or statutory error for basing its decision; no such basis was found here. *See, e.g.*, Leach v. United States, 334 F.2d 945 (D.C. Cir. 1964), and United States v. Wiley, 278 F.2d 500 (7th Cir. 1960), where the abuse of discretion language was used, but the courts in fact based their decision on more specific findings. *See* note 18 and accompanying text, *infra*. The states are divided on whether there should be any appellate review of sentences. Even those that do allow appellate review are split as to how they provide for it. Most of the states providing for such review have express statutory provisions but a small minority have allowed review through judicial interpretation of general jurisdictional statutes. *See* Note, *A Plea for Appellate Review of Sentences*, 32 OHIO ST. L.J. 410 nn. 52 & 53 (1971).

[13] Scott v. United States, 419 F.2d 264 (D.C. Cir. 1969); LeBlanc v. United States, 391 F. 2d 916 (1st Cir. 1968); Thomas v. United States, 368 F.2d 941 (5th Cir. 1966). *But see*, Gollaher v. United States, 419 F. 2d 520 (9th Cir. 1969); Williams v. United States, 273 F.2d 469 (10th Cir. 1959). Also somewhat related to this area is the problem of a harsher sentence being imposed after a new trial won on a prior successful appeal. *See, e.g.*, North Carolina v. Pearce, 395 U.S. 711 (1969); Marano v. United State, 374 F.2d 583 (1st Cir. 1967). *See also* Aplin, *Sentence Increases on Retrial After North Carolina v. Pearce*, 39 U. CIN. L. REV. 427 (1970).

[14] *See, e.g.*, Townsend v. Burke, 334 U.S. 736 (1948) (false information); United States v. Weston, 448 F. 2d 626 (9th Cir. 1971) improper information); United States v. Malcolm, 432 F.2d 809 (2d Cir. 1970) (false information); United States v. Lewis, 392 F.2d 440 (4th Cir. 1968) (misconception of law); United States v. Myers, 374 F.2d 707 (3d Cir. 1967) (false information), and Smith v. United States, 223 F.2d 750 (5th Cir. 1955) (false information).

[15] *See, e.g.*, United States v. Wiley, 278 F.2d 500 (7th Cir. 1960); Eviere v. United States, 249 F.2d 293 (10th Cir. 1957).

[16] *See* O'Brien v. United States, 376 F.2d 538 (1st Cir. 1967), where defendant was convicted of intentionally failing to carry his draft card because he had burned it in protest over the Viet Nam War. The court of appeals upheld the conviction but remanded the case for resentencing because the six year sentence was imposed, not so much for the actual failure to carry the draft card, but because of the defendant's views on the war. Thus, the harsh sentence penalized the defendant for exercising his right of free speech.

[17] *See* Weems v. United States, 217 U.S. 349 (1910); Ralph v. Warden, 438 F.2d. 786 (4th Cir. 1970).

[18] 278 F.2d 500 (7th Cir. 1960).

[19] 334 F.2d 945 (D.C. Cir. 1964). *See also* Jones v. United States, 327 F.2d 867 (D.C. Cir. 1963); Peters v. United States, 307 F.2d 193 (D.C. Cir. 1962).

[20] 334 F. 2d at 945.

[21] 185 F.2d 807 (6th Cir. 1950).

[22] Id. at 809.

[23] 427 F.2d 449 (6th Cir. 1970), decided June 15, 1970.

[24] 429 F.2d 1273 (6th Cir. 1970), decided July 30, 1970.

[25] 434 F.2d 740 (6th Cir. 1970); decided Nov. 19, 1970. The case was later dismissed on appeal to the Supreme Court, 402 U.S. 970 (May 17, 1970). Refer to, the earlier cases of United States v. Mullory, 412 F.2d 421 (6th Cir. 1969), *rev'd on other grounds*, 398 U.S. 410 (7970); and United States v. Pratt, 412 F. 2d 426 (6th Cir. 1969), *cert. denied*, 401 U.S. 1012 (1971), For a later case in which the Sixth Circuit rejected the "remand for resentence approach" of *Daniels* and *Griffin* refer to United States v. Dudley, 436 F.2d 1057 (6th Cir. 1971). Other circuits have also rejected this approach of sentence review, even where they felt the sentence was excessive. *See, e.g.*, United States v. Sanders, 435 F.2d 683 (5th Cir. 1970); United States v. Slawson, 432 F.2d 109 (10th Cir. 1970); United States v. Fallon, 407 F.2d 621 (7th Cir.), *cert. denied*, 395 U.S. 908 (1969). For a general view of how Selective Service violators are being sentenced *see*: Note, *A Judicial Wheel of Fortune*, 5 COLUM, J. L. & SOC. PROB. 164 (1969); Solomon, *Sentences in Selective Service and Income Tax Cases*, 52 F.R.D. 481 (1970).

[26] In *Griffin*, the appellant was in the same position as the appellant in *Daniels*, since he had been granted a conscientious objector status but would not obey an order of the draft board, but would obey an order of a judicial body directing him to do the same work as did the draft board. In *McKinney*, while the appellant had not been granted a conscientious objector status, he was at all times willing to serve in a noncombat capacity.

[27] *See* note 25 *supra*.

[28] On appeal *McKinney* was remanded by order without opinion for resentencing in light of *McDaniels*. United States v. McKinney, No. 71–1063 (6th Cir. Dec. 17, 1971).

[29] United States v. Daniels, 446 F.2d 967, (6th Cir. 1971).

[30] 337 U.S. 241 (1949).

[31] 358 U.S. 576 (1959).

[32] 446 F.2d at 971.

[33] *Id.* at 972.

[34] U.S.C.A. App. § 462 (1965).

[35] 337 U.S. 241 (1949).

[36] *Id.* at 248 n. 13.

[37] 337 U.S. 241 (1949).

[38] 358 U.S. 576 (1959).

[39] 446 F.2d at 969.

[40] 337 U.S. 241 (1949).

[41] 358 U.S. 576 (1959).

[42] 185 F.2d 807 (6th Cir. 1950).

[43] *Id.* at 809.

[44] *See* text at pp. 197–99 *supra*.

[45] In fact, just recently the Fourth Circuit in United States v. Wilson, 450 F. 2d 495 (4th Cir. 1971), remanded the case for resentencing where the three year sentence imposed there "may have been the product of sheer inadvertence" [*id.* at 498] on the part of the trial judge, in that he may have overlooked the fact that the defendant could have been sentenced under the Federal Youth Correction Act. 18 U.S.C. §§ 5005–5026 (1950). That Act provides for special consideration in sentencing youths between the ages of 22 and 26. Since the defendant was within that age group and there was no showing that the trial judge considered it when sentencing him the court of appeals vacated the sentence and remanded the case.

[46] 275 F.2d 325 (9th Cir. 1960).

[47] *Id.* at 330 n. 10.

[48] The contempt cases represent a special area of criminal justice and administration. Appellate courts have traditionally had power to review sentences given for contempt because the imposition of a contempt citation is purely within the discretionary power of the district courts and Congress has declared no minimum or maximum standards to be applied. *See* Green v. United States, 365 U.S. 165, 188 (1958). Thus, appellate courts have a special responsibility in this area to see that sentences are properly imposed and on several occasions they have exercised this responsibility to reduce contempt sentences on their own where they felt such action was required. *See, e.g.*, Yates v. United States, 356 U.S. 363 (1958); Nilva v. United States, 352 U.S. 385 (1957); United States v. United Mine Workers, 330 U.S. 258 (1947); Schnurman v. United States, 379 F.2d 92 (D.C. Cir. 1967); United States v. Levine, 288 F.2d 272 (2d Cir. 1961).

[49] In two cases of unusual but similar circumstances the Court of Appeals for the District of Columbia imposed a sentence of life imprisonment in lieu of capital punishment. Coleman v. United States, 357 F.2d 563 (D.C. Cir. 1965) (*en banc*); Frady v. United States, 348 F. 2d 84 (D.C. Cir.), *cert. denied*, 382 U.S. 909 (1965). However, the court in both of these cases clearly limited their decisions to the particular facts.

[50] United States v. McKinney, 427 F.2d 449 (6th Cir. 1970); and United States v. Griffin, 434 F.2d 740 (6th Cir. 1970).

[51] The Supreme Court does have some supervisory power over the administration of criminal justice in the federal system, but this power has generally been limited to the formulation of rules of evidence. *See* McNabb v. United States, 318 U.S. 332 (1943). Historically, the Court has declined to extend that power to the review of sentences imposed in the district courts except in the contempt cases. For a further discussion of the supervisory power in this area *see*: NOTE, *What is the Proper Scope of Appellate Review of Sentencing* 75 HARV. L. REV. 416, 417 (1961): Note, *Appellate Review of Sentencing Procedure*, 74 YALE L.J. 379, 385 (1964).

[52] 28 U.S.C. § 2106 (1964).

[53] *See* note 7 *supra*.

[54] *See* note 8 *supra*.

[55] That Act in section 3 provided that: in case of an affirmance of the judgment of the District Court, the Circuit Court shall proceed to pronounce final sentence and to award execution thereon; but if such judgment shall be reversed, the Circuit Court may proceed with the trial of said cause *de novo* or remand the same to the District Court for further proceeding. Act of March 3, 1879, 20 Stat. 354.

[56] *See, E.g., Appellate Review of Sentences, A Symposium at the Judicial Conference of the United States Court of Appeals for the Second Circuit*, 32 F.R.D. 249, 27 (1962) (remarks of Judge Sobeloff); Mueller, *Penology on Appeal: Appellate Review of Legal but Excessive Sentences*, 15 VAND. L. REV. 671 (1962); Sobeloff, *The Sentence of the Court: Should There be Appellate Review?*, 41 A.B.A.J. 13 (1955); Tydings, *Ensuring Rational Sentences—The Case for Appellate Review*, 53 J. AM. Jud. SOC'Y 68 (1969). *But see* Brewster, *Appellate Review of Sentences*, 40 F.R.D. 79 (1965).

[57] *See* United States v. Daniels, 319 F. Supp. 1061 (E.D. Ky. 1970), in which the district judge who sentenced and resentenced the defendant in this case discusses his broad

discretionary power in sentencing and how it is unique to the district court.

[58] *See* United States v. Wiley, 184 F. Supp. 679, 688 (N.D. Ill. 1960), in which the district judge that had originally sentenced the defendant in United States v. Wiley, 278 F.2d 500 (7th Cir. 1960) reimposed the same sentence he had given before the Seventh Circuit remanded the case, stating that he felt the court of appeal's action in remanding the case for resentencing was "an uncertain and dangerous precedent." However, he later suspended the sentence "out of respect for the Court of Appeals," 184 F. Supp. at 688.

[59] *See* text at pp. 197–99 *supra*.

[60] *See Appellate Review of Sentences, a Symposium at the Judicial Conference of the United States Court of Appeals for the Second Circuit*, 32 F.R.D. 249 (1962).

[61] Congress has in fact recognized that there is a need for appellate review of sentences in certain circumstances. Under the Organized Crime Act of 1970 there is an express provision for appellate review of any sentence imposed under the dangerous offenders section (18 U.S.C.A. § 3575 (1970)) of that Act. The review provision, 18 U.S.C.A. § 3576 (1970) allows the court of appeals to review the sentence imposed under section 3575 to determine "whether the procedure employed was lawful, the finding made were clearly erroneous, or the sentencing court's discretion was abused."

[62] S. 2228, 92d Cong., 1st Sess. (1971). The American Bar Association has also proposed a bill to provide for the appellate review of sentences. *See* ABA PROJECT ON MINIMUM STANDARDS FOR CRIMINAL JUSTICE, STANDARDS RELATING TO APPELLATE REVIEW OF SENTENCING, (App. Draft 1968).

[63] Proposed section 3742 (c) of S. 2228, 92d Cong., 1st Sess. (1971).

[64] *See* Brewster, *Appellate Review of Sentences*, 40 F.R.D. 79, 86–7 (1965). *But cf.* Frankel, *The Sentencing Morass, and a Suggestion for Reform*, 3 CRIM.L. BULL. 365, 379 (1967).

[65] The House hasn't proposed such legislation for review of sentences; however, it seems that it may act in this area. Letter from William J. Keating to author, November 30, 1971.

[66] S. KADISH & M. PAULSEN, CRIMINAL LAW AND ITS PROGRESSES, 1287 (2d ed. 1969): D'Esposito, Jr., *Sentencing Disparity: Causes and Cures*, 60 J. CRIM. L.C. AND P.S. 182 (1969).

Mr. McCLELLAN. Mr. President, I am glad to join with the distinguished Senator from Nebraska (Mr. HRUSKA) today in the introduction of S. 716, which would authorize appellate review of excessive sentences. In the last few years, he and I have labored hard together in the criminal justice field on a number of proposals, often, I am pleased to note, successfully. I am hopeful that this idea, too, so long championed by the Senator, can someday become law.

Mr. President, my own interest in the need for appellate review of sentences began with my experience in the investigation of organized crime as part of the work of the Permanent Subcommittee on Investigations. I know from long experience what it is to assault entrenched criminal syndicates only to see years of dedicated investigation obtaining less than maximum results.

One of the worst gangsters we uncovered in my years as chairman of the Senate Labor-Rackets Investigations was Anthony Corallo. A captain in one of New York's five mafia "families," Corallo won his nickname of "Tony Ducks" because he always managed to duck the law. One exception was a 1941 narcotics conviction, which, however, got him only 6 months. Our hearing record showed how Corallo helped Jimmy Hoffa gain control of New York City's 140,000 Teamsters by bringing in 40 hoodlums—with records of 178 arrests and 77 convictions of crimes ranging from extortion to murder—to intimidate the rank-and-file membership.

By 1962, Corallo was convicted under the Federal antiracketeering statute—18 U.S.C. § 1952. He had conspired to pay a $35,000 bribe to a New York judge and an assistant U.S. attorney to "fix" a friend's sentence for a $100,000 bankruptcy fraud. Yet when Corallo's sentence was handed down, he drew only 2 years, instead of the maximum 5-year term—despite his public record as a vicious racketeer. Of the 2 years, he actually served only 18 months, and in 1968, Federal investigators publicly stated, Corallo and his gangster associates were once again controlling at least seven of the 56 Teamsters locals in the New York area, forcing millions of consumers to pay hidden tribute.

In June 1968, Corallo stood before the same Federal judge, this time convicted under the same Federal antiracketeering statute for loan-sharking a financially pressed New York City water commissioner. Corallo, through the loan-shark deal, had been able to arrange and share a $40,000 kickback on a city contract. Nevertheless, although he specifically recalled the 1962 sentence he had given Corallo, the judge gave Corallo only 3 years, instead of the maximum 5-year sentence.

It was instances such as this that lead me to introduce and fight for the Organized Crime Control Act of 1970, title X of which authorized increased sentences in racketeer prosecutions and appellate review by the prosecution as well as the defense to reexamine the imposition or the failure to impose such sentences—18 U.S.C. § 3576. And I note that the distinguished Senator from Nebraska supported me in this effort.

Indeed, I am proud that my efforts in behalf of title X that also merited the support of such distinguished bodies as the American Bar Association—testimony of Edward L. Wright, hearings before Subcommittee No. 5, Committee on the Judiciary, House of Representatives 91st Congress, second session, serial No. 27, pages 696–701, 1970—and that it is now one of the tools available to aggressive prosecutors in the fight against organized crime.

Nevertheless, I recognize that appellate review has another dimension. Statistics made available to the Subcommittee on Criminal Laws and Procedures by the Administrative Office of the U.S. Courts and analyzed by the National Institute of Law Enforcement indicate the existence of a shocking sentence disparity. The studies made available to us, in broad outline, indicated the following:

The study found that variations in sentencing, both in type and length, among the Federal district courts for a series of designated offenses were substantial. Specificially, the analysis found that the type of sentence—prison or probation—given defendants and the length of sentence were not consistent among districts for all crimes analyzed.

Another assumption, verified by the study, is that for the Federal crimes, prior record has the most effect on variations in sentencing among the defendant characteristics available for study. In particular, the analysis found that the type of sentence given defendants with no prior record varies as significantly among the districts as that for defendants with prior prison records, while the variation among the districts was significantly less for defendants with prior probation and suspended records and prior juvenile records.

Nevertheless, the length of sentence given defendants with no prior record, prior prison record, and prior probation and suspended record was not consistent among the districts for nearly every crime analyzed. The length of sentence given defendants with prior juvenile records also lacked consistency among the districts for half of the crimes analyzed.

The study found for the Federal crimes studied that nationwide, regardless of circuit, defendants with certain background characteristics were more likely to receive prison sentences than others, for nearly every crime analyzed.

Men received prison sentences more often than women. In fact, the average prison percentages for men were nearly double those for women in eight of the ten crimes analyzed.

Those over age 35 had higher prison percentages than those between 21 and 35, which in turn had higher prison percentages than those under 21.

Defendants with appointed counsel had higher prison percentages than defendants with private counsel.

Black defendants had higher prison percentages than white defendants. The black and whites varied from 2 to 23 percentage points for all but transportation of forged securities and income tax violation, where the differences were 1 and 5 percent in the other direction.

Mr. President, I know that differences of age and sex may warrant some differences in treatment at the time of sentence. But it is difficult to justify disparity based on poverty or race.

Mr. President, the bill that the Senator from Nebraska and I have introduced today squarely raises the issue whether or not some sort of appellate review similar to that now provided by 18 U.S.C. § 3576 ought not be extended across the board in Federal prosecutions. In its present form, S. 716 would be limited to review in behalf of the defendant and sentences could be reviewed only for excessiveness. I note that this is the form in which it passed the Senate as S. 1540 in the 90th Congress, and I support it as far as it goes.

But I have joined in its introduction primarily with the idea that it may serve as a vehicle for discussion. Before I could support its enactment I would want to make its provisions more even handed. They should be extended to provide for prosecutor appeal and the increase of inadequate sentences. Our hearings on the

bill, scheduled to begin soon, should consider these amendments carefully.

Neither of these two extensions would be fundamentally at odds with the bill as the Senator from Nebraska has supported it in the past, and I understand he would be receptive to considering its processing with these goals in mind.

I would also want to consider if there could not be some safeguards built into it to screen out frivolous appeals. We must be carful that we do not overload our courts. At the same time, we must keep our perspective. We must not refuse to do justice for a lack of courts. Court congestion is a reason to move with care. It is not a reason to fail to act.

Mr. President, my good friend and colleague, the distinguished Senator from Nebraska, is to be congratulated on his perserverance in behalf of justice and fairness in sentencing in the criminal justice field.

I am proud to associate myself with his efforts.

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

S. 717. A bill to repeal the bread tax on 1973 wheat crops. Referred to the Committee on Agriculture and Forestry.

REPEAL OF THE BREAD TAX

Mr. WEICKER. Mr. President, I am today introducing legislation to abolish the 75 cent-per-bushel certificate tax on wheat, a tax which has increased the cost of bread by almost 2 cents a loaf.

This measure would terminate the so-called bread tax, as of July 1 of this year. Under present law, this excise tax, which last year amounted to over 50 percent of the market value of wheat, would continue until July 1, 1974. Of all Federal excise taxes, I know of none that even approaches 50 percent of the commodity value. Without question, this is one of the most excessive and regressive of all Federal excise taxes; but an even more unfortunate aspect is that it hits hardest at those who have the least ability to bear its burden.

Of foremost concern, there is the impact of this tax on the American consumer, already overburdened by food prices. Ironically, the tax applies only on wheat for food uses—like bread and flour—and not on wheat for feed. Pigs and poultry get a better tax break on their food than people.

In addition, the bread tax has all the earmarks of an anti-anti-poverty program. The effect of this tax is, of course, passed on to the consumer—especially should bakeries be forced out of business by a resulting profit squeeze. Department of Agriculture statistics show clearly that wheat flour consumption goes up sharply as family income goes down, dramatically illustrating the regressive nature of this tax.

Home use of wheat products per person per week

[In pounds]

Annual income per family:	U.S. average
Under $2,000	3.83
$2,000 to $2,999	3.15
$3,000 to $3,999	2.84
$4,000 to $4,999	2.59
$5,000 to $5,999	2.58
$6,000 to $7,999	2.46
$8,000 to $9,999	2.29

Consumer spending for wheat products

[In percent]

Annual income per family:	
Under $2,000	6.6
$2,000 to $2,999	5.9
$3,000 to $3,999	5.8
$4,000 to $4,999	5.3
$5,000 to $5,999	5.1
$6,000 to $7,999	4.8
$8,000 to $9,999	4.6

The time has clearly come for the Congress to take this step to help low-income consumers—a delay will mean a $400 million burden for those least able to pay for their daily bread.

Finally, this unique wheat certificate tax imposes an undue burden upon the independent bakeries struggling to survive under an economic squeeze of rising costs and controlled prices. The extension of this extraordinary tax will mean a loss of hundreds of jobs and threaten the economic viability of small bakers. The Milling and Baking News, on December 5, 1972, published a list of 35 wholesale bakeries that had closed in the past year for economic reasons.

A letter I received recently from Robert L. Schaus, of the Reymond Baking Co. in Waterbury, Conn., illustrates this problem. As Mr. Schaus points out:

Our bakery has suffered to the extent of an additional $5,000.00 per week for increased flour costs without price relief. While we have the legal right to increase our prices, we cannot do so because of the competition of Tier I (for wage and price control purposes) companies who cannot increase prices because of Tier I limitations under the present Price Commission Guidelines.

Clearly, we do not want the Reymond Baking Co., or any other bakery, to raise prices. Rather, we should remove the 75 cent-per-bushel certificate tax on wheat. This would not affect consumers, or, for that matter, payments to wheat farmers. Under present law, 90 percent of the funds for farm payments come from general revenue, and 10 percent come from the bread tax. Enactment of my bill would simply mean that all farm payments would come from general revenues.

Mr. President, I urge the Congress to act quickly on this measure, as a responsible, fair, and necessary step to offset the increased costs of flour caused by the recent Russian wheat deal, and to protect our consumers, independent bakeries, and low-income people. 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. 717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 379e of the Agricultural Adjustment Act of 1938, as amended by the Food and Agricultural Act of 1970, is amended by striking out the words "1971, 1972, and 1973 crops of wheat" and inserting in lieu thereof "1971 and 1972 crops of wheat".

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 721. A bill to authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of the ranking minority member of the Committee on Interior and Insular Affairs (Mr. FANNIN) and myself, I send to the desk for appropriate reference a bill to authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes.

Mr. President, this bill was submitted and recommended by the Chairman of the Indian Claims Commission and I ask unanimous consent that the bill and letter accompanying this draft proposal be printed in full in the RECORD at this point in my remarks.

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

S. 721

A bill to authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act, 25 U.S.C. § 70, during fiscal years 1974, 1975, 1976, and 1977 such sums as may be necessary to complete the program of the Indian Claims Commission.

INDIAN CLAIMS COMMISSION,
Washington, D.C., January 29, 1973.

Hon. SPIRO T. AGNEW,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposed bill "To authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes." We recommend that the proposed bill be introduced and referred to the appropriate committee for consideration, and we recommend that it be enacted.

FISCAL YEAR 1974 APPROPRIATION AUTHORIZATION

The legislation under which the Indian Claims Commission conducts its program, the Indiam Claims Commission Act, as amended, 25 U.S.C. § 70e (1972), states "There are authorized to be appropriated for the necessary expenses of the Commission not to exceed $1,500,000 for fiscal year 1973, and appropriations for succeeding fiscal years shall be made only to the extent hereafter authorized by Act of Congress." In order to meet fiscal years 1974 through 1977 program requirements, we propose that appropriations of such sums as may be necessary be authorized. There is immediate need for enactment of this authorization in order for work to proceed during the next fiscal year.

FISCAL YEARS 1975, 1976, AND 1977

The Commission is determined to continue its program toward completing all its work by April 10, 1977, a program approved by the Congress in extending the Indian Claims Commission last year. Public Law 92-265, 86 Stat. 114. In addition to the authorization for fiscal year 1974, we are also requesting authorization for the balance of the Commission's work life. Problems of recruitment and retention in an agency where only short tenure can be expected would be compounded by the uncertainties introduced by yearly authorizations. Full oversight by the appropriate committees of Congress will be assured by the required submission of progress reports as presently provided by law.

The Office of Management and Budget has

advised that this proposed legislation is consistent with the Administration's objectives.

Sincerely yours,

JEROME K. KUYKENDALL, *Chairman.*

Enclosure.

By Mr. BEALL (for himself, Mr. DOMINICK, Mr. HATHAWAY, Mr. JAVITS, Mr. PASTORE, Mr. STEVENS, and Mr. YOUNG):

S. 723. A bill to establish a National Institute of Health Care Delivery, and for other purposes. Referred to the Committee on Labor and Public Welfare.

NATIONAL INSTITUTE OF HEALTH CARE DELIVERY ACT

Mr. BEALL. Mr. President, on behalf of Senators DOMINICK, HATHAWAY, JAVITS, PASTORE, STEVENS, YOUNG, and myself, I introduce a bill to establish a new National Institute of Health Care Delivery. This measure is identical to S. 3329, which I introduced last year. This measure, as my colleagues know, was incorporated substantially as introduced as title V of S. 3327, the Health Maintenance Organization and Resource Development Act, which passed the Senate last year, although it was modified to coordinate with the Quality Assurance Commission. Since no final action was taken by the House on its legislation to encourage health maintenance organizations, this measure must now be reintroduced.

Mr. President, I ask unanimous consent that the complete text of the 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. 723

A bill to establish a National Institute of Health Care Delivery, and for other purposes

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

SHORT TITLE

SECTION 1. This Act shall be known as the National Institute of Health Care Delivery Act of 1973.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress of the United States finds—

(1) that the United States faces a crisis in health care;

(2) that health care costs have increased in the last five years twice as fast as the general cost of living;

(3) that there exists an acute shortage and maldistribution of physician and other medical manpower in inner city and rural areas;

(4) that millions of Americans do not have access to quality health care;

(5) that since World War II the United States has invested approximately $20,000,000,000 in biomedical research, and that this investment has resulted not only in wide recognition of the preeminence of biomedical research in the United States, but also produced many, often spectacular, advances in medical science;

(6) that during the same period comparatively few resources were invested to deliver the discoveries of medical research and technology to our citizens;

(7) that the American public is concerned with the gap between the knowledge and capabilities of medical science and what is delivered to the patient, and that this is a source of public discontentment and dissatisfaction;

(8) that significant changes regarding the health care system have been proposed and may be implemented in the near future;

(9) that the potential costs and benefits associated with the various proposals are largely unknown; and

(10) that, inadequate attention, emphasis, and resources have been devoted to health policy analysis and health care delivery.

(b) It is the purpose of this Act to establish a National Institute of Health Care Delivery and regional and special emphasis centers to improve health care delivery and to help speed the delivery of the benefits of medical science and the scientific discovery system to the people of the United States.

SEC. 3. The Public Health Service Act is amended by inserting after title X the following title:

"TITLE XI—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"DEFINITIONS

"SEC. 1101. For the purposes of this title—

"(1) the term 'health care delivery' includes all aspects and interrelationships of the organization, financing, and provision of direct health services to individuals, families, and groups for the purposes of prevention, cure, rehabilitation, restoration, and maintenance of function, and related health services essential to good health.

"ESTABLISHMENT OF INSTITUTE

"SEC. 1102. (a) There is hereby established in the Department of Health, Education, and Welfare a National Institute of Health Care Delivery. The Institute shall carry out a multidisciplinary research and development program to improve delivery of health care services and shall be the principal Government agency for improvement of health care in the United States.

"(b) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate for a term of four years. There shall be in the Institute a Deputy Director, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director. Upon the expiration of his term, the Director and Deputy Director shall continue to serve until his successor has been appointed and has qualified.

"(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

"FUNCTIONS OF THE INSTITUTE

"SEC. 1103. (a) It shall be the function of the Institute to pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration, and evaluation of, but not limited to, the following areas and subjects—

"(1) the existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

"(2) health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

"(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

"(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

"(5) systems and components of rural health services;

"(6) the development of policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

"(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

"(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

"(9) health manpower credentialing, licensing, and certification;

"(10) the medical malpractice problem, particularly as it relates to quality care, the practice of 'defensive medicine' and added costs to the public;

"(11) programs for educating health manpower and the accreditation of such education programs;

"(12) application of all forms of technology, including computers and other electronic devices, in health care delivery;

"(13) the efficiency, management, and utilization of new and existing health care of facilities including studies of admission practices and examination of cost-finding techniques;

"(14) the development of tools and methods to improve planning, management, and decisionmaking in the health care system;

"(15) the development of information by which quality, efficiency, and cost of health care may be measured;

"(16) the development of uniform accounting practices, financial reporting, and uniform health records;

"(17) the development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

"(18) the needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

"(19) the economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

"(20) proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

"(21) concepts and data essential to formation of a factual basis for national health policies; and

"(22) the effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

"(b) The Institute shall (1) develop methods for, and support of, training of individuals to plan and conduct research, development, demonstrations, and evaluation of health care delivery and related services; (2) provide technical assistance and development of methods for the transfer of new knowledge,

components, and systems to public and private agencies, programs, institutions, and individuals engaged in the improvement of health care delivery; (3) collaborate with governments and private care institutions and programs in foreign countries for the exchange of information and support of research, experiments, demonstrations, and training in order to advance health care delivery in the United States and cooperating nations.

"(c) The Institute shall evaluate the quality, effectiveness, and efficiency of Federal health programs, including titles V, XVIII, and XIX of the Social Security Act.

"(d) In improving the delivery of health care to the Nation's citizens. For the purposes of this subsection the Secretary is authorized to transfer to the Institute such funds as may be necessary pursuant to section 513 of this Act.

"ADMINISTRATIVE PROVISIONS

"SEC. 1104. (a) In order to carry out the provisions of this title the Director is authorized to—

"(1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research and development, experiments, studies, demonstrations, and training of individuals to plan and conduct such projects;

"(2) make contracts with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and execute such contracts;

"(3) appoint and fix the compensation of the personnel of the Institute in accordance with chapter 51 of title 5, United States Code, except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Institute;

"(4) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Institute and delegate authority to any officer or employee under his direction or his supervision;

"(5) acquire (by purchase, lease, condemnation, or otherwise) construct, improve, repair, operate, and maintain research and other necessary facilities and equipment and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary;

"(6) to acquire by lease or otherwise from the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years without regard to the Act of March 3, 1877;

"(7) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(8) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this title;

"(9) utilize with their consent the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(10) accept voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(11) accept unconditional gifts or donations of services, money, or property, real or personal, mixed, tangible or intangible;

"(12) allocate and expend or transfer to other Federal agencies for expenditure funds made available under this title as he deems necessary;

"(13) establish within the Institute such offices and procedures as may be appropriate to provide for the greatest possible coordination of activities under this title with related research and development activities being carried on by other public and private agencies and organizations; and

"(14) take such other actions as may be required for the accomplishment of the objectives of this title.

"(b) Upon requests made by the Director, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, information, and statistics available, to the greatest practicable extent, consistent with other laws, to the Institute in the performance of its functions with or without reimbursement.

"(c) Each member of a committee appointed pursuant to paragraph (8) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties including traveltime. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"COMPENSATION

"SEC. 1105. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(95) Director, National Institute of Health Care Delivery.'

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(131) Deputy Director, National Institute of Health Care Delivery.'

"JOINT WAIVER FUNDING AUTHORITY

"SEC. 1106. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute may act for all in administering the funds advanced and a single non-Federal share requirement may be established according to the proportion of the funds advanced by each Federal agency. The Director may order any such agency to waive any technical grant or contract requirement which is inconsistent with the similar requirements of the Institute or which the Institute does not impose.

"TRANSFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

"SEC. 1107. Funds available to any department or agency of the Government for health care delivery research and development, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Institute for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Institute for the purposes for which the transfer was made.

"TRANSFER OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND DEVELOPMENT

"SEC. 1108. (a) The National Center for Health Services Research and Development is hereby transferred from the Health Services and Mental Health Administration to the Institute.

"(b) Subject to the provisions of this section, the President, for a period of two years after the date of enactment of this title, may transfer to the Institute any functions (including powers, duties, activities, facilities, and parts of functions) of the Department of Health, Education, and Welfare or of any officer or organizational entity thereof which relate primarily to the functions, powers, and duties of the Director as described by this title. In connection with any such transfer the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

"NATIONAL ADVISORY COUNCIL ON HEALTH CARE DELIVERY

"SEC. 1109. (a) There is hereby established a National Advisory Council on Health Care Delivery (hereafter referred to as the Council) to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Services and Mental Health Administration, the Director of the National Institutes of Health, and the Director of the National Institute of Health Care Delivery who shall be ex officio members and an additional fifteen members not otherwise of the regular full-time employee of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the consumers of health care.

"(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

"(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the office of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(d) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 503, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–18 under

section 5332, title 5, United States Code, as may be necessary to provide for the performance of duties as may be prescribed by the Council in connection with his duties under this Act. The Director of the Institute shall make available to the Council such additional staff information, and other persons as it may require to carry out its activities.

"(f) The Council shall—

"(1) review programs, policies, and priorities of the Institute, and centers established under section 1113, and advise the Director on the development and conduct of the programs of the Institute and centers;

"(2) examine and coordinate health care delivery efforts within the Department of Health, Education, and Welfare and other Federal departments and agencies so as to avoid duplication; and

"(3) assure that significant research and development findings of the Institute and centers are being disseminated to the health care system, and evaluate the extent such findings are making an impact on the health care delivery system.

"(g) The Council shall submit as an appendix to the report required by section 1110 of this Act, its report on the progress of the Institute and centers toward the accomplishment of the objectives of this title, and the status of health delivery research development in the United States including any minority views of the Council members.

"REPORTS

"SEC. 1110. The Director shall, within one year after the date of his appointment and prior to February 1 of each year thereafter, prepare and submit to the Secretary for his transmittal to the President and the Congress a written report that shall include:

"(1) an appraisal of the activities and accomplishments of the Institute and the centers;

(2) bibliographies with annotations of research performed or supported and a summary of the significant research and development findings which show promise (given due consideration to the cost, benefits, and the quality of health care program) of improving health care delivery or increasing the productivity of health care systems; and

"(3) identification and recommendations concerning those factors or barriers which inhibit implementation of the significant research and development findings of the Institute and centers or that prevent innovation in health care.

"HEALTH CARE DELIVERY INFORMATION SERVICES

"SEC. 1111. There is created within the National Institute of Health Care Delivery an Office of Health Care Delivery Information Services. Such office shall provide—

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 1112. For the purposes of carrying out the provisions of this title (except for the provisions of section 1113) there are authorized to be appropriated $125,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $200,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this section may be carried over without fiscal year limitations.

"REGIONAL AND SPECIAL EMPHASIS CENTERS

"SEC. 1113. (a) In order to strengthen the Nation's research and development base in health care delivery, to enable the examination and study of health care delivery problems of the various regions of the United States, and to link better research and development findings with actual practice, the Director is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost planning, establishing, and providing basic operating support for (1) not to exceed eight regional centers to carry out multidisciplinary research and development in health care delivery, and (2) two national special emphasis centers, one of which shall be designated as the Health Care Technology Center, to focus on all forms of technology, including computers and electronic devices, and its application in health care delivery; and one which shall be designated as the Health Care Management Center, to focus on the improvement of management and organization in the health field, the training and retraining administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field.

"(b) Federal payments under this subsection in support of such cooperative agreements may be used for—

"(1) construction to the extent that the National Advisory Council determines such construction is necessary;

"(2) staffing and other basic operating costs;

"(3) research and development;

"(4) training; and

"(5) demonstration purposes.

Support under this subsection other than support for construction shall not exceed $2,000,000 per year per centre, except for the Health Care Technology Center, and may be funded for an initial period of not to exceed three years. The Director, following a review of each center's operation and upon the recommendation of the National Advisory Council, may extend the centers for an additional period of not more than three years each.

"(c) The location of the regional centers authorized by subsection (a) shall be determined by the National Advisory Council with a view, to the extent possible, of broad geographical distribution of such centers.

"(d) The administrative officer of each regional and national special emphasis center shall transmit annually to the Director a report which shall set forth (1) an audit of expenditures in accordance with generally accepted accounting procedures, (2) bibliographies, with annotations, of research performed, and (3) a description of ongoing research programs including a summary of significant research and development findings.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitations.

"SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

"SEC. 1114. (a) In order to encourage individuals, institutions, and health facilities to participate in research and demonstration projects, which without the incentive assistance provided under this section would not otherwise be carried out, and which have been designated by the National Advisory Council as essential, the Director is authorized to provide funds to be used to increase the Federal contribution to such projects under Federal grant-in-aid programs above the fixed maximum portion of the cost of such projects otherwise authorized by an applicable law. Funds shall be so provided for Federal grant-in-aid programs for which funds are available under the Acts authorizing such programs and shall be available without regard to any appropriation authorization ceiling in such Acts.

"(b) The Federal portion of such costs shall not be increased in excess of the percentage established by the Director, and shall in no event exceed 80 percentum thereof.

"(c) The term 'Federal grant-in-aid program' as used in this section means those Federal grant-in-aid programs in the health area authorized on or before December 31, 1971.

"(d) Not to exceed 10 percentum of the funds authorized by this title shall be available to carry out this section."

Mr. BEALL. Senator KENNEDY has reintroduced the HMO legislation as passed by the Senate, as S. 14. The National Institute of Health Care Delivery is thus incorporated in S. 14 as introduced by Senator KENNEDY. I introduced the legislation separately today, not because I am unhappy that the proposal has been incorporated into S. 14, for I am extremely pleased and honored that Senator KENNEDY and the other members of the Labor and Public Welfare Committee support the new National Institute of Health Care Delivery. Rather, I introduce it as a separate measure only because I believe it will help attract the interest and focus which I believe the proposal merits.

I am confident that this proposal will once again clear the Senate as part of the health maintenance organization legislation and I am hopeful that it will be enacted into law this year.

Basically, the legislation authorizes the establishment of a National Institute of Health Care Delivery which will have a congressional mandate to improve through research and development, the delivery and organization and efficiency of health care in this Nation. In addition, there are authorized up to eight regional centers and two special emphasis centers, the Health Care Technology Center, and the Health Care Management Center. I am encouraged with the interest and support that this proposal has gained in the health, medical, and science communities, and with the general public.

This included a favorable editorial in the highly respected Science Journal. I ask unanimous consent that my floor statement, as well as information I inserted in the RECORD at that time, discussing this proposal when it was incorporated and passed as part of S. 3327, be printed in the RECORD.

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

[From the CONGRESSIONAL RECORD, Sept. 20, 1972]

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

Mr. BEALL. Mr. President, I rise first to indicate my support for S. 3327, a bill to encourage the development of Health Maintenance Organizations in the Nation. This is landmark legislation. I congratulate the Senator from Massachusetts, the Chairman of the Subcommittee on Health, and the ranking Republican member, the Senator from New York (Mr. JAVITS), who is the ranking member of the full Committee on Labor and Public Welfare, and Senator SCHWEIKER, the ranking minority member of the health subcommittee, and Senator DOMINICK for the leadership that they have shown in the entire area of improving opportunities for health care delivery in this country. This is the result of many years of work that began long before I came to the Senate. I am happy to have had the opportunity to participate in these measures for improving access to the health system.

The Senator from Massachusetts and the Senator from New York both very eloquently described the legislation that is under con-

sideration today and they have gone into detail on Health Maintenance Organizations sections.

I will focus my remarks on title V of the legislation, which authorizes a new National Institute of Health Care Delivery as a separate agency within the Department of Health, Education, and Welfare.

The institute's mission will be to conduct a multidisciplinary, research and development effort to improve the delivery and organization of health care in the country. In addition, there is authorized up to eight regional centers and two special emphasis centers, a health care technology center, and a health care management center. The total authorized funding for the Institute, the regional centers and the special emphasis centers will be $155 million for the first year, $185 million for the second year, and $240 million for the third year for a total of $580 million over a 3-year period.

BACKGROUND AND NEED

Mr. President, I first made this proposal for a National Institute of Health Care Delivery in a June 15, 1971 speech in Gaithersburg, Md. Thereafter, I circulated reprints of the speech to various medical and health organizations and to many experts in the field around the country. The interest in the proposal was most encouraging. I was particularly pleased with the favorable editorial comment by the respected "Science Journal." The comments, suggestions, and criticisms that I received were most helpful in molding the proposal into legislative form. I want to extend a special thanks to Johns Hopkins and Maryland University. Their faculties' interest and observations contributed significantly to the final bill. I also examined the administrative and organizational structure of the various Federal research and development efforts as well as some private organizations.

Finally, on March 13 of this year I introduced S. 3329, a bill to establish a National Institute of Health Care Delivery. S. 3329 was cosponsored by Senators DOMINICK, HOLLINGS, PASTORE, and STEVENS. I am grateful for their support and assistance on this legislation.

Mr. President, since World War II, the United States has invested approximately $20 billion in biomedical research. This investment has produced many dividends in terms of medical breakthroughs. This effort has made the United States preeminent worldwide in biomedical research.

During the same period, comparatively small investments have been made in research and development to deliver the fruits of biomedical research to the American citizens. During the last fiscal year, for example the National Institutes of Health's budget was $2.2 billion, while the budget for the National Center for Health Services Research and Development was only $62 million. I want to make it clear that the citing of this contrast does not suggest or imply that we are spending too much for biomedical research. For the record of this Senator, the Congress, and the administration clearly reveals strong support for an accelerated attack against the No. 1 and 2 diseases of our citizens, heart and cancer. Biomedical research and health-care delivery are inextricable pursuits.

The disparity in spending between biomedical research and health care research and development may help explain the preeminence of the United States in biomedical research and the deficiencies in our present health system, as well as the growing gap between what medical knows and what is delivered to the patient.

I have talked to many Marylanders and citizens of this country. Although our citizens marvel and applaud the achievements of medical science, including the miracle-like transplants that are taking place, their first plea to the health community is not for more dramatic breakthroughs, although these are wanted, but for the health system to make available, accessible, and affordable the achievements, methods, and procedures developed by medical science over the last quarter to one-half century. The public is aware of the gap between the capabilities of medical science and what is delivered to the patient, and this is a source of much discontent.

Developing the means and methods to deliver the results of medical research to our citizens wherever they live and at a price they can afford will not be an easy task. It will be the difficult mission and challenge given the new Institute.

PRESENT EFFORTS INADEQUATE

Presently, the Nation's effort in this area is at the National Center for Health Services Research and Development. This Center presently is buried in the bureaucracy of the Department of Health, Education, and Welfare, being one of the many units of the Health Services and Mental Health Administration.

This center would be moved to the new Institute. At its present position in the Department, the Center for Health Services Research and Development lacks visibility and its clout is small. It lacks an effective organizational structure and the flexibility that characterizes many Government research and development organizations. It is not funded adequately. Its research function has been shortchanged and underemphasized. It does not even have a legislative mandate. I doubt whether many in Congress, other than those with a special interest in health or serving on the health or appropriations committees, even know the center exists.

Although some interesting efforts have been undertaken at the center and elsewhere, one must admit that the efforts to date have contributed disappointingly little either to the solving of the problems of the present delivery system or to the producing of alternative systems. The fact is that important questions that had been raised about health care delivery 10 years ago, are still being asked today.

I do not believe that we can wait another decade for these answers. The committee shares this belief not only because of the urgency of our present problems, but also because we will be making fundamental decisions with respect to the directions of health care delivery in the near future and we need all the information and wisdom we can gather so that the decisions made will be the best possible. The new National Institute of Health Care Delivery, with a clear mandate from Congress, top management, the necessary organizational structure and administrative provisions, and with adequate resources, will help us to find the answers to the many health care delivery questions and help make health care delivery in the United States as important as medical research.

LOCATION AND APPROACH

The new National Institute of Health Care Delivery will be a separate agency within the Department of Health, Education, and Welfare. Its organization position within the Department will be comparable to the National Institutes of Health. This position will be needed because of the importance and urgency of health care delivery problems. It is necessary if the Institute is going to attract top management and the talented men and women required for this undertaking. This elevated structure will give health care delivery research and development greater viability and raise its stature among the public, the health community and wtihin the Government. The Institute's news structure will enable it to have a strong voice for a needed increased investment and interest in research and development in health care delivery.

The Institute will provide a creative environment wherein multidisciplinary teams from such academic disciplines as health, medicine, engineering, science, accounting, statistics, social sciencies, architecture, law, education, and the management sciences can interact and focus their attention and generate action oriented research on the critical and complex problems of health care delivery.

The importance of the multidisciplinary approach was underscored in a recent speech by Prof. William B. Schwartz of the Tufts University School of Medicine when he said:

"There is a clear implication that the problems will require a multidisciplinary approach—we are not simply dealing with economic problems to be formulated and analyzed by economists or manpower problems to be dealt with by physicians. The problem of delivery or primary medical care, for example, obviously has an enormous number of facets. It involves not simply a question of more and larger medical schools training more physicians but a range of issues including the maldistribution of physicians, inducements to rural and ghetto practice, restriction of physician entry into specialties that are overpopulated, the use of allied medical personnel to replace physicians in the delivery of primary care, the introduction of computer-aided diagnosis and management as a means of upgrading the nonphysician's performance and increasing his range of responsibilities, the use of television as a link between doctors and patients, and the introduction of new transportation strategies as a means of making high quality care available to areas of low population density.

"In weighing these approaches, consideration must also be given to patient acceptance of new personnel and new technology, to the reliability of computer-aided diagnosis and management, to the response of the physician to incursions of new health personnel and new technology into his domain, to legal problems related to licensure and malpractice, to the time lags involved in the introduction of new strategy, and to the trade-off between quality and quantity that is implicit in changing the traditional patterns of health care. Only in this way can we allocate resources appropriately and can a desirable mix of manpower and technology be brought to bear".

There is another important concept in research and development; namely, "critical mass". This term originated in nuclear physics where "critical mass" is defined as the amount of radioactive material needed to produce a self-sustaining nuclear reaction. In research and development, "critical mass" refers to the minimum size and composition needed to achieve the important self-sustaining creative atmosphere for the undertaking. In theoretical basic research, one or two researchers may be the "critical mass." On the other hand, in complex and larger research efforts, the "critical mass" may be hundreds of individuals from many disciplines. In complex and large undertakings where the "critical mass" is not achieved, reseachers tend to pursue smaller tasks individually. The smaller efforts of individuals doing their "own things" do not often cumulate to produce major efforts. Today we have inadequate numbers of people trained and experienced in this area, and those with this experience are dispersed throughout the government, unversities, and research institutions.

As a result, the synergism that can occur when a "critical mass" of people who are problem solvers from many academic disciplines interact has not yet been adequately developed.

POLICY ANALYSIS ROLE

We also need to develop a strong capability in health care policy analysis. The United

States, in reality, today has no overall health policy although there is growing recognition of the need for one.

Even the Department of Health, Education, and Welfare with its enormous responsibility in the health field, has no cadre of full-time professionals solely committed to policy research and analysis. At the secretariate level, there are a handful of individuals dealing with these matters, but their time and efforts are too often devoted to dealing with present crises or firefighting rather than examining the long-term issues, no matter how important the latter may be.

I might also add that the situation here in the Congress is even more critical. We in Congress should consider establishing a Joint Committee on Health to serve as adjunct to the respective legislative committees of both the House and the Senate. Such a committee could serve a role to the congressional committees with jurisdiction in the health area, similar to that played by the Joint Committee on Taxation in supporting and complementing the Ways and Means Finance Committees.

It is clear that the resolution of major policy issues will shape the future of health care delivery in the country. Thus, there is a critical need to develop analytical capabilities to cope with the large, complex and long-run issues, while the Nation continues to address the immediate problems in the health field.

Policy analysis then will be an important assignment of the Institute through its policy analysis division. As the committee report says:

Policy analysis will be an important part of the work of the Institute. The committee intends that there be established within the Institute a Health Policy Analysis Division to enable groups of professionals to concentrate on long-term policies in the health field.

INSTITUTE'S MANDATE

The Institute will be headed by a Director, appointed by the President, with the advice and consent of the Senate. The salary of the Director will be at Executive Level 4, which is similar to and competitive with other Federal research and development agencies. The Institute will also have a Deputy Director and not to exceed four Assistant Directors, selected by the Director.

It will carry out its functions through an inhouse capability and through an extramural effort at the regional health care centers, the Health Care Technology Center and the Health Care Management Center, as well as broad authority to: First, make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit agencies, institutions, or organizations, and second, contract with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and conduct such efforts.

The objectives and mandate of the Institute will be broad. It will pursue all methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States through initiation and support of studies, research, experimentation, development, and demonstration of, but not limited to, 22 specific functions which are spelled out in the legislation. I ask unanimous consent that these functions be printed at this point in the RECORD.

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

"FUNCTIONS OF THE INSTITUTE

"(1) The existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

"(2) Health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

"(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

"(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

"(5) systems and components of rural health services;

"(6) the development of policy with respect to long-term care, particularly for mentally and physical handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

"(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

"(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

"(9) Health manpower credentialing, licensing, and certification;

"(10) The medical malpractice problem particularly as it relates to quality care, the practice of "defensive medicine" and added costs to the public;

"(11) Programs for educating health manpower and the accreditation of such education programs;

"(12) Application of all forms of technology, including computers and other electronic devices, in health care delivery;

"(13) The efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

"(14) The development of tools and methods to improve planning, management, and decisionmaking in the health care system;

"(15) The development of information by which quality, efficiency, and cost of health care may be measured;

"(16) The development of uniform accounting practices, financial reporting, and uniform health records;

"(17) The development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

"(18) The needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bears on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

"(19) The economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

"(20) Proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

"(21) Concepts and data essential to formation of a factual basis for national health policies; and

"(22) The effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery."

Mr. BEALL. Mr. President, I would like to make some comments on a number of the specific functions assigned to the institute. It will examine the ways physicians and other health professionals are organized and utilized and the extent to which tasks performed by such professionals may be delegated to other appropriately trained individuals. With respect to any illness, we can combine the talents of medical personnel in various ways. Take a routine physical examination. It may be performed entirely by a doctor, by a doctor-nurse combination, with the nurse taking the medical history and the patient's temperature, or by a doctor-nurse-technician team where the technician performs many of the tests and the doctor's role is limited to the interpretation of the results such as in multiphasic screening. These different approaches to the routine physical examination may produce medical care of the same quality.

They, however, carry vastly different implications, both in terms of cost and the utilization of the physician's scarce time. Similarly, experts tell us that from 70 to 80 percent of the pediatrician's medical task could be performed by a trained physician-assistant, such as nurses. Furthermore, it is generally felt that doctors spend too much time on routine tasks, including 25 percent of their time on business, such as bookkeeping, billing, ordering supplies, et cetera. Also, it has been estimated that nurses spend up to 25 percent of their time on paperwork. We need to explore all of these areas and to improve our utilization of scarce medical personnel.

The Institute will study the manpower credentialing and malpractice problem. Both of these issues have been examined recently, but it is important that an examination and followup on these reports be made. Indications are that malpractice insurance may cost some hospitals as much as $2 a day per patient. The malpractice problem has also resulted in what some refer to as "defensive medicine" under which certain tests or procedures are ordered which may not be really necessary in order to protect a physician from a possible charge of negligence. The Institute could use the Federal Government's Public Health Service hospitals and outpatient clinics if license laws prove to be an obstacle to experimentation on the use of new categories of health manpower. Successful experimentation in these Federal facilities should encourage their use elsewhere.

The new Institute also will have the responsibility of examining the efficiency, management, and utilization of new and existing health care facilities including studies of admissions practices, financial reporting, and uniform health records.

Some medical experts estimate that as many as 30 percent of hospital admissions are unnecessary. With the average cost of a single day's stay in any hospital being $100 in many urban areas, it becomes important to avoid unnecessary hospitalization. The U.S. Chamber of Commerce in their excellent study, "Improving our Nation's Health Care System: Proposals for the Seventies," pointed out the need and potential for operational analysis to control cost saying:

"Operational analysis by hospitals should quickly become widespread. One hospital director has in effect a "predicted length of stay profile" for each diagnosis, to use in measuring a doctor's performance. He requires a prospective rather than a retrospective hospital utilization review to be carried out, so that each discharge can be measured against the predicted length of stay for that diagnosis. He suggests greater reward for doctors whose performance results in lowering community costs.

"The average length of stay in his hospital is much lower than surrounding institutions. These illustrations suggest the scope for applying to the hospital cost-saving operational analysis familiar to industrial engineers for a generation or more."

An article in Medical Economics of December 1971 features Parkview Hospital in Indiana which "operates with one-fourth fewer employees per patient than comparable hospitals nationally, and at no apparent sacrifice in the general level of care." The cost per patient at this hospital was $58.09 compared with an average of $83.11 for other Indiana hospitals with 250 beds or more.

While I have not evaluated these particular situations personality, I believe they illustrate the potential for operational analysis and the desirability of uniform accounting rules and reporting so that administrators will be able at least to compare the cost and quality of their facility with comparable facilities elsewhere. This should be a useful tool in moderating health costs.

There is also the serious problem of communities and professionals competing for the most advanced and expensive equipment. This often results in unnecessary duplication. Open heart surgery is a good example. One hospital director has said that open heart surgery requires a team of 12 doctors, nurses, and technicians on constant standby and that 50 operations are needed a year in order to keep the team at its maximum effectiveness and efficiency.

Yet, of the 800 hospitals equipped to do this surgery, one-third do not have a single operation in a year, let alone 50.

A General Accounting Office study recently released points out that the problem of duplication also exists at the Federal veterans' hospitals. The study noted that since 1965 the Veterans' Administration has established 23 open heart surgery centers in its hospitals and that only seven centers during fiscal 1971 performed the minimum number of open heart operations considered necessary.

The Institute would have a mandate to develop and test incentive payment mechanisms that reward efficiency in health-care delivery without, of course, compromising the quality of health care.

The Institute would also examine the applications of all forms of technology including computers and other electronic devices in health care delivery. In this connection the Institute along with the Health Care Technology Center, will examine data processing, which has become standard in other segments of our society. One of the Nation's aerospace corporations did a study of the famed Mayo Clinic and they found that in a $1,000 hospital bill, $300 went to unproductive information handling and filing. Alarmingly, they also found that with all the red tape required, 12 individual steps were needed merely for an X-ray picture—there was one chance in six that the hospital test had some error in it.

The potential of data processing has been illustrated in my State by the Maryland Blue Cross—computer link arrangements with 30 Maryland hospitals. This has enabled Blue Cross to cut its costs of processing patients' admissions and claims by 30 percent from $3.60 per claim to $2.52 per claim.

The Institute should encourage development of preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children. One issue that needs to be answered here is the cost and benefits associated with annual physical examinations or periodic physical examinations at critical ages. With the growing evidence regarding the importance of the early learning years and the growing interest in early childhood programs. I believe it is important that we develop techniques for early detection of physical or mental difficulties that children may have. That is why I have particularly emphasized the early diagnosis for preschool children.

The Institute will give special emphasis to the development of systems and components of rural health services. Certainly, there is little disagreement with respect to the need to upgrade health care in many rural areas.

The Institute will develop policy with respect to long term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aids. Long-term care was one of the areas of concern at the White House Conference on Aging. I believe that society's experience in other areas such as mental retardation demonstrates that alternatives to institutionalization are possible.

The Institute will develop and test systems and technical components of emergency health care and services—including at least one experimental statewide helicopter transportation emergency care system—which utilize, where possible, the skills of returning military corpsmen. This is a neglected area and has been called the "hidden crisis in health care" by Secretary Du Val. Injuries are the chief killer of Americans aged 1 through 36. All of us are potential victims. Yet, the fact is that a trauma victim in Vietnam probably has a better chance of survival than an accident victim in the United States. This is because the military, during the Second and Korean wars developed a highly organized system for transporting and caring for the emergency victim. This procedure has been perfected in Vietnam to such an extent that Secretary of Defense Laird has been able to declare that the death rate of such victims in Vietnam was near zero.

The technology and know-how is there; all we have to do is organize on a rational basis and apply these lifesaving methods. Heart attack victims could also benefit from improved emergency care arrangements. as some experts have estimated that prompt and early care might potentially save 150,000 heart attack victims annually.

My own State of Maryland, for example, is pointing the way in this area with its trauma center at the University of Maryland and its four helicopters now in operation. With three or four helicopters, this system could be statewide and the able director of the center, Dr. R. Adams Cowley, predicts that accident deaths in Maryland could be cut by one-half in 2 years.

I ask unanimous consent that an article from a booklet "Today's Neglected Disease Trauma," written by Dr. Cowley and Lieutenant Hudson on the Maryland program be printed at the conclusion of my remarks.

TRAINING AND TECHNICAL ASSISTANCE

Mr. BEALL. Mr. President, the Institute will develop methods and support for training of individuals to plan and conduct research, development, and evaluation of health-care delivery and provide technical assistance and develop methods for the transfer of new knowledge, components, and systems to the health community. The Institute is also authorized to exchange information and collaborate with other countries for the advancement of health-care delivery in the United States. The Institute and its affiliated centers will also provide an opportunity for individuals from industry, local and State government and Federal agencies to receive training.

In addition, "alumni" of the Institute and centers will be available for administrative and policymaking positions in the health community.

These responsibilities are critical. Our ability to expand research and development in the health care delivery field will require additional skilled and trained personnel. Yet, the number of economists, physicians, engineers, lawyers, and other experts qualified by training and experience to work in health care research and policy analysis field is limited. I believe that the broad authority granted to the Institute and its centers to develop methods and support for the training of individuals in this field will enable the production of the required manpower.

The Institute should seriously explore the fellowship and training grant mechanism employed so successfully by the National Institutes of Health to lure young talent into biomedical research. Basically, NIH uses two approaches. First, following an individual's intern or residency, fellowships are available on a national competitive basis for research. The competitive nature of the fellowship program plus the preeminence of the National Institutes of Health have combined to make this mechanism most successful.

Second, certain universities become training centers for a specific area; for example, heart diseases, and that institution is given a grant by the National Institutes of Health which enables the Institute to attract researchers.

The critical importance of the training functions makes it imperative that the Institute capitalize on the experience of NIH and others and provide the support necessary to produce a cadre of first-rate professionals in this field sharing common analytical concepts of understanding.

The Institute may also determine that long-term appointments are needed to attract individuals from academic life and this certainly would be possible under the broad authority also. Furthermore, the Institute or the centers may be supporting or conducting seminars in this area. These examples are only cited as illustrative of the broad authority provided to the Institute and the centers. The specific training program, incentives, and personnel policies will be decided by the Director.

The importance of this training function cannot be emphasized too much, for as the committee report notes—

"The Committee believes that the requirement and training of top caliber personnel must be an important priority of the Institute, for the ultimate success of the enterprise will depend on men and women who direct and work in the Institute and its centers."

I also want to emphasze the important responsibilities of the Institute to see that the results of its research and development efforts are disseminated to the health community. The results are of little use resting on a shelf of a researcher. Such results must reach the health community.

MAJOR EVALUATION ROLE

The new Institute will also have a major evaluation role. The Institute will evaluate the quality, effectiveness, and efficiency of Federal health programs, including medicare, medicaid, and the maternal and child health programs of the Social Security Act. For such evaluation, the Secretary of Health, Education, and Welfare is authorized to transfer the evaluation funds appropriated pursuant to section 513 of the Public Health Service Act as he deems necessary.

The Institute will have more expertise, talent and objectivity for evaluation of programs than probably any other Federal agency, and I believe its utilization for this purpose will be exceedingly desirable. There is general agreement that more and improved evaluation efforts are needed.

EXPERIMENT INCENTIVES

The legislation also provides for supplemental incentive grants to encourage experimentation. The basic thrust of this section is that when the National Advisory Council designates a project or a health facility as essential to the research and development efforts of the Institute or centers, and where it is determined that such experimental efforts would not be undertaken without this incentive, the Director could increase or supplement the regular

Federal grant-in-aid health programs up to 80 percent.

For example, under Hill-Burton, the Federal program for health facility construction and modernization, the Federal matching in general cannot exceed two-thirds. Assuming that a particular facility was designated as essential, this section would enable the facility to receive 80 percent Federal matching. Not more than 10 percent of the funds authorized by this legislation could be used for these incentive grants to encourage experimentation.

REPORTS

The Director of the Institute, within 1 year after his appointment and prior to February 1 of each year thereafter, is required to prepare and submit to the Secretary of Health, Education, and Welfare for transmittal shortly thereafter to the President and the Congress, a written report including: First, an appraisal of the Institute's activities, and accomplishments; second, a summary of its significant research and development findings; and third, an identification and recommendation concerning those factors or barriers which inhibit implementation of the Institute's significant findings or prevent innovation in health care.

ACTIVE ADVISORY COUNCIL

The Institute will have a prestigious National Advisory Council on Health Care Delivery. This Council will have 21 members, including the Secretary of Health, Education, and Welfare; the chief medical officer of the Veterans' Administration; a medical officer designated by the Secretary of Defense; the Director of the National Institutes of Health; the Administrator of the Health Services and Mental Health Administration; and the Director of the National Institute of Health Care Delivery as ex officio members. The other 15 members will be selected by the President from persons who are leaders in the field of medical science, or the organization, delivery, or financing of health care; leaders in the management sciences; or representatives of consumers of health care. In selecting the membership of this Council, it is my intention that the President search for the most distinguished and talented individuals available. The legislation does not spell out, but it is my intention, and that of the committee, that at least one of the Council members be a practicing physician. At least seven of the Council members must be representatives of consumers. The President will designate the Chairman of the Council and they will meet at the call of the Chairman, but not less than four times a year.

The bill contemplates an active Council and specific responsibilities are delineated in the legislation. The Council will be responsible for reviewing the programs, policies, and priorities of the Institute; examining and coordinating health care delivery efforts within the Department of Health, Education, and Welfare and other Federal agencies so as to avoid duplication; assuring that significant reesarch and development findings are communicated throughout the health system and to the public; and evaluating the impact that the Institute's research and development efforts are having on the health-care system.

The Council will be independent and will have its own Executive Director. If the Council is to enjoy the independence that the legislation envisions, it is important that it have a top staff person accountable only to the Council.

The Council is also required to submit as an appendix to the Director's report a summary of the progress of the Institute in achieving the bill's objectives and the Council's evaluation of the status of health-care delivery and research and development in the Nation. Any minority views of Council members will also be included in this report.

NEEDED ADMINISTRATIVE PROVISIONS

In drafting this legislation, I have studied the various Federal research and development agencies such as the National Institutes of Health, NASA, the National Science Foundation, and the National Institute of Education, which was enacted into law this year. We have given to the Institute the administrative provisions which seem to be important to a successful research and development effort.

Thus, the new Institute and centers are provided a flexible personnel system to enable the attraction of the most qualified and talented individuals. This will include the authority, when the director deems it necessary, to establish the entrance pay level up to two grades higher than it otherwise would be and the authority to appoint a percentage of the employees without regard to civil service laws.

The new Institute is granted the authority to carry over unexpended funds from one year to the next. This is vital and will permit the Institute to provide stable funding for multiyear projects which are important in research and development.

The new Institute is given multigrant authority which will enable the waiver of certain requirements for undertakings where funds are advanced to a single project by more than one Federal agency. While this is not as desirable as in my original bill, it nevertheless will be a useful provision.

REGIONAL AND SPECIAL EMPHASIS CENTERS

Title V also provides for up to eight regional centers and two special emphasis centers, the Health Care Technology Center and the Health Care Management Center. The objectives of the regional centers are: first, to enable the study of the different health care problems of the various regions of the Nation; second, to broaden and strengthen the Nation's research and development base in health-care delivery; and third, to link better research and development with actual practice.

It may also be desirable, in addition to the above general purposes and programs, that some or all of the regional centers might specialize in an area or areas such as the malpractice problem and other medical-legal issues; information handling problems; and quality assessment and insurance programs.

The location of the regional centers will be determined by the National Advisory Council. This Council, to the extent feasible, is directed to provide broad geographical dispersion of the centers. When all of the centers are operational, each region of the Nation will be served by a center.

I do want to emphasize that the bill authorizes not to exceed eight regional centers. While I believe that eight centers are ultimately desirable, I do want to underscore the admonition in the committee report that "it is not the intent of the committee that all eight centers be created initially." The committee, mindful of the manpower and other constraints, by this language is stressing our intent that we desire the regional centers to be of highest quality. While I envision that all eight centers will be operational sometime in the future, I want to reach that number without sacrificing quality.

Thus, it may be desirable that only two centers be established at the outset. Then, as the Institute's training efforts begin to produce the additional trained manpower, more centers would be established. An added advantage of this approach is that the experience of the early centers should enable subsequent centers and the Congress to learn and make adjustments as experience indicated where necessary.

The regional centers will be funded initially by the Institute for up to 3 years. Thereafter, following a review of each center's work and operations, by the Director and upon the recommendation of the National Advisory Council, the Director may extend the centers for an additional period of not more than 3 years. After this period, it is my intent that the majority of the regional centers' support will be program support in competition with other Institutions. I also hope and believe that the States in the regions in which the various centers are located will utilize the Centers for research, development, and evaluation. Thus, at the end of the 6-year period, the success of the center will be determined by the quality of their efforts and the degree of interest shown in their work by the States, local governments, private foundations and industry, and the health care community within the area in which the centers are located. These centers may be managed by a university, or a number of universities and colleges under a consortium arrangement, or by public and private organizations and associations, both profit and nonprofit.

SPECIAL EMPHASIS CENTERS

Two special emphasis centers, health care technology center and a health care management center, are also authorized.

The health care technology center will focus on all forms of technology, including computers and electronic devices, and its application in the improvement of health care.

Technological advances in such areas as space, communications, and data processing in the last decade have been almost unbelievable. Yet, the technology has not made a similar impact on the health system. In fact, much of the health care system continues to employ the same manual procedures used at the turn of the century. We need to wed 20th-century technology with 20th-century research to improve the delivery of health care. This will be the assignment of the Health Care Technology Center.

President Nixon, in a number of messages to the Congress, has emphasized the need to encourage the application of science and technology to the solution of domestic problems. In his March 2, 1972, Health Message, the President specifically identified health as a "vital area" for exploiting technology.

One must confess that the expectations, particularly in the sixties, that technology would produce a "revolution in health care" have not materialized. The Health Care Technology Center is expected to provide the leadership and mobilize the Nation's involvement and interest in the development and utilization of technology. Particular attention needs to be paid to the involvement of private industry, for the successful development of technology depends, to a great extent, on the interest and actions of private industry. Industry's limited involvement in the health technology area today results from a number of factors including the diffused markets of the health field; the limited success achieved to date; and the Government's failure to give priority to the utilization of technology in solving of health problems as has been done, for example, in space and defense.

Technological solutions are not likely to result unless the above difficulties are addressed.

To do this, there is a need to aggregate both health resources and markets. Once this occurs, I believe industry will identify and take advantage of the economics of scale that generally results from larger markets.

I am convinced that there are steps that the Federal Government in general and the Health Care Technology Center in particular can take to encourage technological development in the health area.

For example, various agencies of the Federal Government operate their own health systems, such as the Defense Department and Veterans' Administration. These Federal health systems offer the opportunity for a market sufficiently large to attract industry investment.

Second, the Federal Government could identify potential opportunity for technological solutions and solicit competitive bids through requests for proposals—RFP's—as is done by the Defense Department. Thereafter, there could be full funding of a prototype followed by a guarantee that a sufficient number would be purchased to insure a profit. The units produced could then be sold, loaned, leased, or donated to individuals or organizations that would use them effectively.

A decision, for example, could be made by the Federal Government to do something about the problems of the visually handicapped in the country. There are about 400,000 legally blind persons in the Nation today. It has been estimated that many of them have a significant amount of visual perception in at least one eye. Optical devices, such as eyeglasses, are of limited value to many of these citizens since such glasses only magnify the image and do not control brightness and contrast which are equal in importance in perceptual acuity. The Rand Corp. has designed and fabricated a prototype circuit television system—CCTV—an electro-optical system involving image magnification, brightness, and contrast. This prototype system has been tested on a number of visually handicapped people ranging in ages from 10 to 83 with a wide variety of eye disorders. Better than 80 percent of the subjects have found the system helpful in reading and writing.

Presently, the Rand Corp. is working on a second generation system which is aimed at solving the difficult problem that many partially sighted persons face, namely the transfer of information from one place to another.

The CCTV could well be the forerunner of the new series of devices which would be used to enhance the education of visually handicapped children, to permit partially sighted persons of working age to obtain and hold well-paying jobs which would otherwise be closed to them, and to allow elderly persons with reduced vision to enjoy the pleasures of reading and writing during their declining years.

I cite this as only an example of the problem area for which there exists a sufficiently large market which would undoubtedly create a response from the industrial community as well as lead to a tremendous aid for the handicapped if the decision were made to exploit technology in this area.

The second Special Emphasis Center, the Health Care Management Center, is of critical importance. For as Dr. Kerr White, professor of medical care and hospitals, of the Johns Hopkins University has observed:

"Vastly improved managerial expertise is a prerequisite for any meaningful improvement in our health care system at the operating and geographical levels."

The health care management centers will focus on the improvement of management and/or organization in the health field, the training and retraining of health administrators, and the development of leaders, planners, and policy analysts in the health field. The job of the managers in the health field is most complex. The modern manager of a health enterprise, if he is to carry out his responsibilities with maximum effectiveness must have a basic understanding of a wide variety of management skills and some background in such areas as health, economics, computer technology, and statistics to mention a few.

Quite often medical administrators are elevated to these positions without adequate preparation for these new responsibilities. Certainly American industry would make certain that its top executives are adequately trained and the health system must do no less. There is also often the need to provide retraining of health managers as is evidenced by the letter I received from one administrator, Dr. Fine, Deputy Commissioner of the Boston Department of Health and Hospitals. He said:

"Practitioners of Health Care Administration, among whom I am one, have been flying by the seat of their pants for too long. The Nation deserves better. There is currently no systematic effort I know of to reach decision makers in the health care field with the results of innovative research and to stimulate a research orientation to many of the problems we all face in the financing, organization, and delivery of services.

"There is moreover, an almost total neglect of more formal continuing eduction opportunities for health care administrators. . . . After ten years or more in the field, many of us are in positions of responsibility and strong in experience but weak in understanding of fundamental advances in health care systems, e.g. the problem-oriented medical record, how to organize a prepaid group practice, the use of television in medical diagnosis and treatment, computer applications to health systems problems, etc."

The administrative officer of each regional center and each special emphasis center will be required to submit annually to the director a report which shall include an audit of expenditures; bibliographies, with annotations of research performed; and a description of on-going research programs including a summary of significant research and development findings.

The regional and special emphasis centers have a separate authorization of $30 million for the initial fiscal year and a total of $105 million over a 3-year period. Support for a center, other than support for construction, shall not exceed $2 million per year per center, except for the Health Care Technology Center, and Federal assistance may be used for research and development, staffing and other basic operating costs, training, demonstration purposes, and construction where the National Advisory Council deems necessary.

The committee report makes a point with respect to the Technology Center's purposes which is important and bears reiteration. The report states:

"The committee wishes to emphasize that the center's purpose is to encourage the development of technology to solve the health problems of our citizens and our health institutions and not as a place to find markets for available technology."

In other words, the center should be searching for technological solutions to patient care, health institutions, and systems problems, and not for ways to utilize available technology.

It is also important that the technology or systems that are developed are such that can or will be adopted by the health professionals. It would be also extremely valuable if the Technology Center would develop expertise with respect to technological forecasting so that the consequence, particularly the cost, of new technology might be predicted. Certainly, with the rising health care costs, the health system does not need "technological playthings" which are neither cost effective or fail to increase productivity.

Mr. President, the Senate Labor and Public Welfare Committee, on which I serve, last year heard testimony regarding the potential of the computer coupled with new "health care specialists." The committee saw demonstrated a potential way of extending the doctor in remote areas which have been unable to attract a physician.

The computer is already being employed in such areas as the interpretation of the electrocardiogram and the automation of history taking. Earlier this year, I visited the University of Maryland Hospital Trauma Center and I watched the computer perform a variety of tasks, including the constant monitoring of even the chemical content of the air that the center's severe trauma victims were breathing.

I believe that there is enormous potential for the use of technology that could bring many benefits to the public and the patient. At present, our success has been limited. At present, only a handful of individuals are actively concerned with the technology and its potential in helpng to solve health problems.

The Health Care Technology Center is designed to remedy this situation and serve as the focal point for an accelerated group research effort on both program and hardware development.

CONCLUSION

Mr. President, the health care enterprise in the country is our second largest industry today with spending totaling $75 million or 7.4 percent of our gross national product. By 1974, health will probably become our largest enterprise with expenditures exceeding $100 billion.

The magnitude of these expenditures alone argue for an accelerated and strengthened research and development component in the health field. There is considerable public frustration and dissatisfaction with various aspects of health care. The public is alarmed over rising costs. I recently read an Associated Press story which headlined that the hospitals per day costs in 1971 averaged $92.31, an increase of 13.9 percent over the previous year. The story hastened to add, however, that the 1970 increase was 15.7 percent and that hospitals have been able to slow the rate of increase. Think about it, over a 2-year period almost a 30-percent increase in hospital costs occurred. This obviously cannot continue.

The public is also concerned about the manpower and facility shortages as well as their maldistribution and the Congress has taken steps enacting legislation in response to the problem. The public is also distressed that the benefits of medical science and the scientific discovery system are not reaching them.

There is considerable change occurring in the health system, the bill before the Senate today is designed to encourage additional change with the development of health maintenance organizations. The rapidity of change and reform is likely to accelerate in the years ahead. I believe that it is imperative that we strengthen our research and development capabilities in the health area so that we may make more intelligent choices and foster constructive changes. I believe that we desperately need advanced warnings of approaching "crises." I believe we need more information upon which to base decisions and make meaningful comparisons in the area.

I believe we need to sharpen our abilities to illuminate issues and to identify possible options and their implications. I believe we need a framework for evolving health-care policy for the long term while we continue to address the immediate problems. The size of the health enterprises, its importance to the American public and the growing Federal investment to make it imperative, in my judgment, that research and development in health care delivery become as important and achieve the preeminence of biomedical research in the United States.

The respected Science Journal, in a favorable editorial on my proposal said:

"A major tour de force is needed now to dramatize the importance of rationale organization and planning services . . . if the magnificent benefits of American medical research are meant for all our people, then an effective science of health care delivery is as important as the medical research itself."

As Dr. Kerr White, of Johns Hopkins University, noted—

"The issue in research and development, it seems to me, is the extent to which we are prepared to make Federal, State, institutional, academic, and industrial commitments to aggressive pursuit of improved ways of providing health care.

"Acceptance of change is inevitable and recognition that we need more science in health care rather than less seems essential. The point to be recognized is that the sciences required are more than those encompassed by the traditional biomedical sciences."

A new National Institute of Health Care Delivery represents such a "commitment" and will provide the "major tour de force" to make health care delivery as important as medical research, and to help speed the benefits of medical science and the scientific discovery system to the people of the United States.

I strongly urge its enactment by the Senate and the Congress.

I ask unanimous consent that the editorial from Science Journal be printed in the RECORD at the conclusion of my remarks.

I also ask unanimous consent that the portion of S. 3327, dealing with the new National Institute of Health Care Delivery, be printed in th RECORD.

"EXHIBIT 1

"AIR-VAC HELICOPTERS HELP SAVE LIVES

"(By Capt. Frank Hudson and R. A. Cowley, M.D.)

" 'Since some accidents will always occur, steps must be taken to minimize human losses resulting from them. . . .'

"Over the years, we have watched persons with life threatening injuries or illness die at the scene awaiting an ambulance, die on their way to the nearest hospital or die in that hospital due to inadequate facilities, personnel and equipment to offer the necessary immediate treatment and care for survival.

"A study in which the deputy state medical examiner participated indicates that roughly 40 per cent of the persons killed in Maryland die in hospitals . . . and half of these could likely have been saved if promptly and properly diagnosed and treated. One concerned researcher's comment sums up the problem:

" 'It is essential that we strive for a reasonable balance between the need for prompt treatment and the better treatment which may be possible if the injured are taken to trauma centers.'

"Still, present policy seems to be to transport more injured, without regard for the severity of their injuries, to hospitals whose chief distinction is being nearest the scene. When or if the receiving doctor feels the injury is too severe to be treated in his facility, the patient is transported to another hospital (provided he has survived thus far). This adds up to an appalling waste of time, which can be ill-afforded by the person with the life threatening injury or illness.

"To help overcome this problem, the University of Maryland Hospital developed the Center for the Study of Trauma thus providing critical patients the best immediate treatment available in the country. Treatment centers of this caliber are enormously expensive and difficult to staff. As a result one cannot expect rapid development of additional facilities of this type; therefore, it is imperative that safe, rapid transportation be provided persons with life threatening illness or injury so the services of the center are made available to them.

"Medical authorities tell us that we should strive to have the severely injured in a well-equipped and staffed medical facility soon after they have been injured if complications from their injuries are to be reduced and their lives saved. Indications are that 30 minutes from the injury to definitive medical treatment is usually acceptable with one hour being the outside practical limit. With the surface traffic congestion of today and insufficient medical facilities equipped to handle the severely injured, the lightweight highspeed helicopter is the most effective and economical way to avoid congestion, cover the distances involved and assure that highway injured receive needed treatment in time.

"The State Police are duty bound to assure that the lives and safety of all persons in the state are safe-guarded and when injured or ill come under their care, they receive the best handling possible under existing conditions. Their helicopters provide for transportation of critical persons as an extension of normal police helicopter operations. This provides a sound fiscal base as existing know-how, facilities, equipment and personnel are utilized to the maximum.

"The trooper assigned to the helicopters have completed the Red Cross advanced first aid course, receive advanced ambulance attendant training from the Fire Service Extension, University of Maryland, and receive an intensive week of training in the Shock Trauma Unit.

"Our cooperative program, one of the few successful programs of this type in the country, has been a simple matter of developing community resources between the university, State Police and the City Fire Department Ambulance Service.

"State Police records show that 58,672 persons were injured in Maryland from automobile accidents last year. Of the 787 killed in these accidents, many could have been saved by fast, efficient helicopter service to University Hospital's Shock Trauma Center.

"When persons are injured in an automobile accident, volunteer fire company ambulance crews sometimes decide incorrectly to take the most serious to the nearest hospital, even though a helicopter is available.

"Such a case happened earlier this year when the helicopter landed near the scene of an accident. The ambulance crew decided to take the most serious case to the nearest hospital. When the State Police helicopter crew delivered the less severely injured victim to University Hospital, the county hospital where the other victim was taken called for the helicopter because they did not have the necessary life-saving equipment. But it was too late.

"With a top speed of 150 miles per hour, helicopters can fly from the Maryland-Pennsylvania line to University Hospital in less than 15 minutes and less than an hour from the Eastern Shore. An ambulance, even with wide-open siren, would require at least twice as much time because of traffic congestion especially on weekends when most accidents occur. An emergency in Cumberland would take only an hour to reach University Hospital by helicopter.

"Better service can be provided. The most obvious area that needs strengthening is the education and acceptance by police, ambulance and medical authorities to the fact that the best interest of the patient must be served. Some units are still guarding what they believe are their prerogatives, thus causing some critical patients to be taken to an outlying hospital (and often held there) instead of going directly to a major trauma unit. Accreditation and categorization of hospital emergency departments could go a long way toward solving this problem. This approach has long been advocated by the National Research Council's Committee on trauma and shock.

"While we learn to better utilize equipment, personnel and systems, more high-quality emergency facilities with trauma units will be needed. Quick response helicopter service will also be needed statewide. Tentative studies indicate that as few as seven fully manned helicopters are needed for definitive statewide service.

"Why not police helicopters in ambulance service? They complement not threaten surface units. The safety of the few victims demanding helicopter transport is compromised when handled routinely. The police helicopter has been here for years, their crews are vastly experienced in applying helicopter support to civil public service operations. Required communications also have been here for years, the police communications net is one of the finest designated for rapid emergency communications. This is an excellent opportunity for the public to realize a greater return for their investment in government.

"A 17-year-old boy delirious, with a high temperature was admitted suffering from a gunshot wound below the knee which was emitting a sweetish odor—gas gangrene. The infection had extended above the knee, to the thigh and onto the abdomen—traditional amputation was impossible. The wound had become contaminated with clostridia, a bacteria causing gas gangrene which can't survive in high concentrations of oxygen. If hyperbaric oxygen was not administered quickly the teenager would be dead. Once placed in the hyperbaric chamber, within 24 hours his temperature dropped, he became alert and after three days, the gangrene symptoms disappeared—his life was saved.

"In shock, the blood pressure falls, circulation slows, and the cells, which depend on oxygen for survival, suffer; if this is not corrected the cells die. Lack of oxygen in cells, called hypoxia, is the prime cause of death in shock. One way to correct this inadequacy is to drench the blood going through the cells with oxygen—hyperbaric oxygenation—in a pressurized chamber.

"Few of these hyperbaric facilities exist therefore patients from nearby states are also treated in the Maryland facility.

"In the future, an inhalation poison center will be open using the hyperbaric medical facilities and the Medi-Vac helicopter program for those victims, fire fighters, chemical workers and others throughout the state who will need this resource for survival."

"EXHIBIT 2

"[From Science magazine, September 1971]

"THE TOPSY-TURVEY WORLD OF HEALTH-CARE DELIVERY

"(By William Bevan)

"In a recent speech Senator J. Glenn Beall, Jr. (R.-Md.), called for the establishment of a National Institute of Health-Care Delivery. In so doing, he has focused attention on a national problem on broad scale and transcendent urgency.

"Over the years the American people have prided themselves on being the best clothed, best fed, best housed, best educated, and healthiest people in the world. But recent health statistics give cause for concern. Across the board, we are not the healthiest people in the world, in spite of a number of impressive facts. The nation has spent some $20 billion on biomedical research since the late 1940's. We now have more physicians and hospitals than ever before. And currently we spend for health services more—and the rate of expenditures is escalating more rapidly—than we have ever done before. In the last decade alone, physicians' fees have risen twice as rapidly and hospital charges four times as fast as other items in the Consumer Price Index.

"The situation is a complex one. Certainly the balance among the diseases has shifted toward the degenerative disorders. But, in addition, there are striking geographic variations in the availability of health resources. There are marked differences in availability for urban and rural populations and for the poor and the more affluent. Most insurance coverage is inadequate in that it excludes outpatient and preventive services and only partially accommodates catastrophic incidents. And, generally, resources, particularly those for unusual treatment, are poorly utilized everywhere. (If, for example, the utilization of health-care resources were

improved by only 10 percent, the saving would be $5 billion. But, with a high proportion of third-party payments, there is little incentive for efficiency. Instead, the trend is to use the higher-cost facilities and services and to make as many of these available as possible.)

"The essential ingredients of the Beall proposal merit serious examination. By 1970, health-care delivery had become the nation's second largest industry. But last year only $18 million was spent on research in this area. No other industry can make such a claim. The National Institute of Health are charged with the technical aspects of prevention and treatment. The Health Services and Mental Health Administration is concerned with health-care delivery, but it has other responsibilities as well. A major tour de force is needed now—an administrative mandate backed by appropriate funding—to dramatize the importance of rational organization and planning of services, even though such action would add yet another agency to the welter already existing in the health field. Future legislation would do well to direct its sole attention to the social sciences, both basic and applied, which underlie effective organization and management. Furthermore, the importance of testing and evaluation should receive significant consideration. Already, a number of alternative systems—for instance, group practice, private prepaid care, a variety of community health-care schemes, and health maintenance organizations—are in various stages of design and development, and a nation with an established scientific tradition must certainly recognize the importance of pilot projects.

"If the magnificent benefits of American medical research are meant for all of our people, then an effective science of health-care delivery is as important as the medical research itself."

"EXHIBIT 3

"TITLE XIII—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"ESTABLISHMENT OF INSTITUTE

"SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare a separate National Institute of Health Care Delivery. The Institute shall carry out a multidisciplinary research and development program to improve delivery of health care services and shall be the principal agency in the Department of Health, Education, and Welfare to coordinate and cooperate with the Commission on Quality Health Care Assurance for improvement of Health care in the United States.

"(b) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. There shall be in the Institute a Deputy Director. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director.

"(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

"FUNCTIONS OF THE INSTITUTE

"SEC. 1302. (a) It shall be the function of the Institute in coordination and cooperation with the Commission on Quality Health Care Assurance to pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration, and evaluation of, but not limited to, the following:

"(1) the existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

"(2) health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

"(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

"(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

"(5) systems and components of rural health services;

"(6) the development of policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

"(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

"(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

"(9) health manpower credentialing, licensing, and certification;

"(10) the medical malpractice problem, particularly as it relates to quality care, the practice of 'defensive medicine' and added costs to the public;

"(11) programs for educating health manpower and the accreditation of such education programs;

"(12) application of all forms of technology, including computers and other electronic devices, in health care delivery;

"(13) the efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

"(14) the development of tools and methods to improve planning management, and decisionmaking in the health care system.

"(15) the development of information by which quality, efficiency, and cost of health care may be measured;

"(16) the development of uniform accounting practices, financial reporting, and uniform health records;

"(17) the development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

"(18) the needs of individuals, families and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development to educational materials and methods communicating to the public the importance of personal decisions and actions on health;

"(19) the economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy.

"(20) proposals for the financing of health care, including the potential cost and benefits, and their impact on the health system;

"(21) concepts and data essential to the formation of a factual basis for national health policies; and

"(23) the effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

"(b) The Institute shall in cooperation and coordination with the Commission on Quality Health Care Assurance (1) develop methods for, and support of, training of individuals to plan and conduct research, development, demonstrations, and evaluation of health care delivery and related services; (2) provide technical assistance and development of methods for the transfer of new knowledge, components, and systems to public and private agencies, programs, institutions, and individuals engaged in the improvement of health care delivery; (3) collaborate with governments and public and private health care institutions and programs in foreign countries for the exchange of information and support of research, experiments, demonstrations, and training in order to advance health care delivery in the United States and cooperating nations.

"(c) The Institute in cooperation and coordination with the Commission on Quality Health Care Assurance shall evaluate the quality, effectiveness, and efficiency of Federal health programs in improving the delivery of health care to the Nation's citizens. For the purposes of this subsection the Secretary is authorized to transfer to the Institute such funds as may be necessary.

"ADMINISTRATIVE PROVISIONS

"SEC. 1303. (a) In order to carry out the provisions of this title the Director is authorized to—

"(1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research and development, experiments, studies, demonstrations, and training of individuals to plan and conduct such projects;

"(2) make contracts with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and execute such contracts;

"(3) appoint and fix compensation of the personnel of the Institute in accordance with chapter 51 of title 5, United States Code except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Institute;

"(4) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Institute and delegate authority to any officer or employee under his direction or his supervision.

"(5) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain research and other necessary facilities and equipment and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary;

"(6) to acquire by lease or otherwise from the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years without regard to the Act of March 3, 1877;

"(7) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(8) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

"(9) utilize with their consent the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(10) accept voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(11) accept unconditional gifts or donations of services, money, or property, real or personal, mixed, tangible or intangible;

"(12) allocate and expend or transfer to other Federal agencies for expenditure funds made available under this title as he deems necessary;

"(13) establish within the Institute such offices and procedures as may be appropriate to provide for the greatest possible coordination of activities under this title with related research and development activities being carried on by the Commission on Quality Health Care Assurance and other public and private agencies and organizations; and

"(14) take such other actions as may be required for the accomplishment of the objectives of this part.

"(b) Upon requests made by the Director, each Federal agency is authorized to make its services, equipment, personnel, facilities, information, and statistics available, to the greatest practicable extent, consistent with other laws, to the Institute in the performance of its functions with or without reimbursement.

"(c) Each member of a committee appointed pursuant to paragraph (8) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties including traveltime. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"COMPENSATION

"SEC. 1304. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(98) Director, National Institute of Health Care Delivery.'

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(132) Deputy Director, National Institute of Health Care Delivery.'

"ADMINISTRATION OF GRANTS IN CERTAIN MULTIGRANT PROJECTS

"SEC. 1305. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute in cooperation and coordination with the Commission on Quality Health Care Assurance may act for all in administering the funds advanced and a single non-Federal share requirement may be established according to the proportion of the funds advanced by each Federal agency. The Director may order any such agency to waive any technical grant or contract requirement which is inconsistent with the similar requirements of the Institute or which the Institute does not impose, except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

"TRANSFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

"SEC. 1306. Funds available to any department or agency of the Government for health care delivery research and development, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Institute for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Institute for the purposes for which the transfer was made.

"TRANSFER OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND DEVELOPMENT

"SEC. 1307. (a) The National Center for Health Services Research and Development is hereby transferred from the Health Services and Mental Health Administration to the Institute.

"(b) Subject to the provisions of this section, the President, for a period of two years after the date of enactment of this Act, may transfer to the Institute any functions (including powers, duties, activities, facilities, and parts of functions) of the Department of Health, Education, and Welfare or of any officer or organizational entity thereof which relate primarily to the functions, powers, and duties of the Director as described by this Act. In connection with any such transfer the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

"NATIONAL ADVISORY COUNCIL ON HEALTH CARE DELIVERY

"SEC. 1308. (a) There is hereby established a National Advisory Council on Health Care Delivery (hereafter referred to as the Council) to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Services and Mental Health Administration, the Director of the National Institutes of Health, and the Director of the National Institute of Health Care Delivery who shall be ex officio members and an additional fifteen members not otherwise in the regular full-time employ of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be (1) persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the general public who are consumers not related to the provision of health care.

"(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

"(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the office of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(d) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–18 under section 5332, title 5, United States Code, as may be necessary to provide for the performance of duties as may be prescribed by the Council in connection with his duties under this Act. The Director of the Institute shall make available to the Council such additional staff, information, and other persons as it may require to carry out its activities.

"(f) The Council shall—

"(1) review programs, policies, and priorities of the Institute and centers established under section 1311, and advise the Director on the development and conduct of the programs of the Institute and centers;

"(2) examine and coordinate health care delivery efforts in cooperation and coordination with the Commission on Quality Health Care Assurance within the Department of Health, Education, and Welfare and other Federal departments and agencies so as to avoid duplication; and

"(3) assure that significant research and development findings of the Institute and centers are being disseminated and evaluate the extent such findings are making an impact on the health care delivery system.

"(g) The Council shall submit as an appendix to the report acquired by this Act its report on the progress of the Institute and centers toward the accomplishment of the objectives of this Act, and the status of health delivery research development in the United States including any minority views of the Council members.

"SEC. 1309. The Director shall, within one year after the date of his appointment and prior to February 1 of each year thereafter, prepare and submit to the Secretary for his transmittal to the President and the Congress a written report that shall include:

"(1) an appraisal of the activities and accomplishments of the Institute and the centers;

"(2) bibliographies with annotations of research performed or supported and a summary of the significant research and development findings which show promise (given due consideration to the cost, benefits, and the quality of health care program) of improving health care delivery or increasing the productivity of health care systems; and

"(3) identification and recommendations concerning those factors or barriers which inhibit implementation of the significant research and development findings of the Institute and centers or that prevent innovation in health care.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1310. For the purposes of carrying out the provisions of this title (except for the provisions of section 1311) there are authorized to be appropriated $125,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $200,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums

appropriated pursuant to this section may be carried over without fiscal year limitations.

"REGIONAL AND SPECIAL EMPHASIS CENTERS

"SEC. 1311. (a) In order to strengthen the Nation's research and development base in health care delivery, to enable the examination and study of health care delivery problems of the various regions of the United States, and to link better research and development findings with actual practice, the Director in cooperation and coordination with the Commission on Quality Health Care Assurance is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, and providing basic operating support for (1) not to exceed eight regional centers to carry out multidisciplinary research and development in health care delivery, and (2) two national special emphasis centers, one of which shall be designated as the Health Care Technology Center, to focus on all forms of technology, including computers and electronic devices, and its application in health care delivery; and one which shall be designated as the Health Care Management Center, to focus on the improvement of management and organization in the health field, the training and retraining of administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field.

"(b) Federal payments under this subsection in support of such cooperative agreements may be used for—

"(1) construction to the extent that the National Advisory Council determines such construction is necessary;

"(2) staffing and other basic operating costs;

"(3) research and development;

"(4) training; and

"(5) demonstration purposes.

Support under this subsection other than support for construction shall not exceed $2,000,000 per year per center, except for the Health Care Technology Center, and may be funded for an initial period of not to exceed three years. The Director, following a review of each center's operation and upon the recommendation of the National Advisory Council, may extend the centers for an additional period of not more than three years each.

"(c) The location of the regional centers authorized by subsection (a) shall be determined by the National Advisory Council with a view, to the extent possible, of broad geographical distribution of such centers.

"(d) The administrative officer of each regional and national special emphasis center shall transmit annually to the Director a report which shall set forth (1) an audit of expenditures in accordance with generally accepted accounting procedures, (2) bibliographies, with annotations, of research performed, and (3) a description of ongoing research programs including a summary of significant research and development findings.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitations.

"SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

"SEC. 1312. (a) In order to encourage individuals, institutions, and health facilities to participate in research and demonstration projects, which without the incentive assistance provided under this section would not otherwise be carried out, and which have been designated by the National Advisory Council as essential, the Director is authorized to provide funds to be used to increase the Federal contribution to such projects under Federal grant-in-aid programs above the fixed maximum portion of the cost of such projects otherwise authorized by an applicable law. Funds shall be so provided for Federal grant-in-aid programs for which funds are available under the Acts authorizing such programs and shall be available without regard to any appropriation authorization ceiling in such Acts.

"(b) The Federal portion of such cost shall not be increased in excess of the percentage established by the Director, and shall in no event exceed 80 per centum thereof.

"(c) The term "Federal grant-in-aid program" as used in this section means those Federal grant-in-aid programs in the health area authorized on or before December 31, 1972.

"(d) Not to exceed 10 per centum of the funds appropriated by this part shall be available to carry out this section."

By Mr. BENTSEN:

S. 725. A bill authorizing the Secretary of the Army to construct three floodwater channels for flood prevention and other purposes in the Lower Rio Grande Basin, Willacy, Hidalgo, and Cameron Counties, Tex. Referred to the Committee on Public Works.

Mr. BENTSEN. Mr. President, I am introducing today a bill authorizing the Corps of Engineers to carry out a program of flood prevention and control for the Lower Rio Grande Basin of Texas.

This bill would provide for the construction of 164 miles of new flood control channels to remove floodwater from Willacy, Hidalgo, and Cameron Counties of Texas. This area is more commonly known as the Lower Rio Grande Basin.

This area of my State, Mr. President, is sorely in need of this project. The three-county area consists of 2,209,300 acres of which 1,732,600 is high quality crop and grass lands. This acreage produces a normal yearly gross value in excess of $100 million and is the primary economic activity of the basin.

The problem behind the urgency for the enactment of this legislation is the fact that there is almost no natural drainage for the area. Flood-producing rains may occur in any season of the year. Hurricanes strike the area occasionally, and are accompanied by heavy rains which cause extensive flood damage. Some of the more recent major floods occurred in 1955, 1957, 1958, 1961—Hurricane Carla—and 1967—Hurricane Beulah.

Based on interviews with farmers, ranchers, and urban property owners, as reported by the U.S. Department of Agriculture, the total average direct floodwater crop and pasture damage in the basin is estimated to be $8,147,000. Road and bridge damages amount to $49,000 annually. In the urban areas, flood damage to buildings and their contents, streets, sewerlines, lawns, and parks are estimated to be $62,000 annually. Indirect damages, such as initial losses to local businesses, added expense of rerouting traffic to and from school, and disruption of normal community activities are extensive. These damages are estimated to be $826,000 annually. These direct damage expenses, Mr. President, total over $9 million a year.

The essential channel system for removing floodwater, which this bill will provide for, is necessary before the local people can take action on their own to correct their water control and management problems. The size of this project, the technical knowledge necessary, and the expense of the channels make Federal assistance imperative.

Therefore, Mr. President, I must strongly urge the Congress to take prompt and favorable action on this measure.

By Mr. BENTSEN (for himself Mr. ABOUREZK, Mr. BEALL, Mr. BIBLE, Mr. BROCK, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. DOMENICI, Mr. HASKELL, Mr. INOUYE, Mr. HUMPHREY, Mr. MCGOVERN, Mr. MOSS, Mr. NUNN, Mr. RANDOLPH, and Mr. YOUNG):

S. 726. A bill concerning the allocation of water pollution funds among the States in fiscal 1973 and 1974. Referred to the Committee on Public Works.

Mr. BENTSEN. Mr. President, on behalf of myself and 15 other Senators, I am today introducing legislation to insure that no State receives less Federal money for water pollution control in fiscal 1973 and 1974 than it received in fiscal 1972. An identical measure has been introduced in the House by Congressman JIM WRIGHT of Texas, chairman of the Investigation and Oversight Subcommittee of the Public Works Committee.

Last year, the Senate, by unanimous vote, authorized a national program of $5 billion for fiscal 1973 and $6 billion for fiscal 1974 to combat water pollution. The President vetoed the legislation, and the Congress overwhelmingly overrode the veto, enacting the measure into law.

Now the President has anounced that he will release less than half of the amount authorized in the next 2 fiscal years. Instead of $5 billion for 1973, he proposes to release only $2 billion and instead of $6 billion for 1974, he proposes to release only $3 billion.

Mr. President, I support the President's efforts to put a lid on spending, for I believe the Government has to economize if we are to put our economy back on an even keel. But the Congress has indicated and I believe the American people support a high priority for efforts in water pollution control. Indeed, the unanimous vote in the Senate on this measure and the lopsided majorities to override the President's veto are the clearest possible signs that this Congress, within the overall limits on spending, places this item near the top of the list in importance.

For a number of States, the situation is complicated by the fact that the conference committee agreed on a change of formula for distributing available funds. Rather than a formula based on popula-

tion, the new program will allocate funds according to a needs estimate compiled in 1971, an estimate based on samples of rather dubious accuracy.

The combination of this formula change and the President's impoundment of funds means that some 30 States will actually suffer a decrease in water pollution funds for fiscal 1973, 23 will suffer a fiscal 1974 loss, and 24 States will suffer a combined loss in funds for 1973 and 1974.

The bill I introduce today is drafted to assure that no State will have its allocation reduced below fiscal 1972 levels for the next 2 years. It is a limited but necessary step to keep our water pollution control programs moving throughout the Nation, and I believe it is a measure which should receive the backing of responsible officials in the administration.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a table showing how the various States fare without my bill as well as a copy of the bill itself.

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

S. 726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law or any other regulation no State shall receive a lesser allocation of water pollution control funds in fiscal 1973 or fiscal 1974 than it received in fiscal 1972.

DISTRIBUTION OF WATER POLLUTION CONTROL FUNDS

State	Funds received in fiscal 1972 based on population	Funds allocated in fiscal 1973 based on needs	Difference, fiscal years 1972 and 1973	Difference between fiscal years 1972 and 1974	2-year gain or loss over fiscal year 1972
Alabama	33,785,150	7,224,000	−26,561,150	−22,949,150	−49,510,300
Alaska	3,548,000	4,504,000	+956,000	+3,208,000	+4,164,000
Arizona	17,695,750	2,692,000	−15,003,750	−13,657,750	−28,661,500
Arkansas	19,418,050	7,072,000	−12,346,050	−8,810,050	−21,156,100
California	189,541,250	196,352,000	+6,810,750	+104,986,750	+111,797,500
Colorado	21,738,150	6,332,000	−15,406,150	−12,240,150	−27,646,300
Connecticut	29,350,500	33,620,000	+4,269,500	+21,079,500	+25,349,000
Delaware	5,921,650	13,130,000	+7,208,350	+13,773,350	+20,981,700
District of Columbia	7,800,150	14,228,000	+13,447,850	+13,541,850	+26,989,700
Florida	65,134,450	72,528,000	+7,393,550	+43,657,550	+51,051,100
Georgia	44,438,400	19,460,000	−24,978,400	−15,248,400	−40,226,800
Hawaii	8,074,300	6,606,000	−1,468,300	+1,834,700	+366,400
Idaho	7,781,900	4,354,000	−3,427,900	−1,250,900	−4,678,800
Illinois	105,887,000	124,978,000	+19,091,000	+81,580,000	+100,671,000
Indiana	49,976,950	67,324,000	+17,347,050	+51,009,050	+68,356,100
Iowa	27,588,850	23,114,000	−4,474,850	+7,082,150	+2,607,300
Kansas	22,146,850	7,484,000	−14,662,850	−10,920,850	−25,583,700
Kentucky	31,538,750	13,198,000	−18,340,750	−11,741,750	−30,082,500
Louisiana	35,551,850	18,856,000	−16,695,850	−7,267,850	−23,963,700
Maine	10,403,050	19,350,000	+8,946,950	+18,621,950	+27,568,900
Maryland	37,871,250	85,164,000	+47,292,750	+89,874,750	+137,167,500
Massachusetts	54,569,050	75,152,000	+20,582,950	+58,158,950	+78,741,900
Michigan	84,756,550	159,628,000	+74,871,450	+154,685,450	+229,556,900
Minnesota	36,850,650	40,638,000	+3,837,350	+24,156,350	+27,993,700
Mississippi	22,346,700	7,870,000	−14,476,700	−10,541,700	−25,018,400
Missouri	45,134,550	33,112,000	−12,022,550	+4,533,450	−7,489,100
Montana	7,534,600	3,324,000	−4,210,600	−2,548,600	−6,759,200
Nebraska	14,898,500	7,416,000	−7,482,500	−3,774,500	−11,257,000
Nevada	5,326,250	5,754,000	+427,750	+3,304,750	+3,372,500
New Hampshire	7,846,750	16,618,000	+8,771,250	+17,080,250	+25,851,500
New Jersey	68,549,450	154,080,000	+85,530,550	+162,570,550	+248,101,100
New Mexico	10,670,500	4,216,000	−6,454,500	−4,247,500	−10,702,000
New York	172,839,550	221,156,000	+48,316,450	+158,894,450	+207,210,900
North Carolina	49,155,750	18,458,000	−30,697,750	−21,468,750	−52,166,500
North Dakota	6,876,100	934,000	−5,942,100	−5,475,100	−11,417,200
Ohio	101,621,800	115,474,000	+13,852,200	+71,589,200	+85,441,400
Oklahoma	25,212,500	9,216,000	−15,996,500	−11,338,500	−27,385,000
Oregon	20,638,000	16,988,000	−3,650,000	+4,844,000	+1,194,000
Pennsylvania	112,444,900	108,428,000	−4,016,900	+50,197,100	+46,180,200
Rhode Island	9,770,100	9,778,000	+7,900	+4,836,900	+4,904,800
South Carolina	25,694,050	12,910,000	−12,784,050	−6,329,050	−19,113,100
South Dakota	7,308,800	1,896,000	−5,412,800	−4,464,800	−9,877,600
Tennessee	38,227,450	23,210,000	−15,017,450	−3,412,450	−18,429,900
Texas	106,900,250	55,388,000	−51,512,250	−23,818,250	−75,330,500
Utah	11,030,650	2,816,000	−8,214,650	−6,806,650	−15,021,300
Vermont	5,137,200	4,436,000	−701,200	+1,516,800	+815,600
Virginia	44,914,250	58,286,000	+13,371,750	+47,514,750	+60,886,500
Washington	33,037,650	17,812,000	−15,225,650	−6,319,650	−21,545,300
West Virginia	17,657,050	9,998,000	−7,659,050	−2,660,050	−10,319,100
Wisconsin	42,646,650	34,830,000	−7,816,650	+9,598,350	+1,781,700
Wyoming	4,049,450	536,000	−3,513,450	−3,245,450	−6,758,900
Guam	2,172,000	1,744,000	−428,000	+444,000	+16,000
Puerto Rico	27,032,550	17,690,000	−9,342,550	−497,550	−9,840,100
Virgin Islands	1,957,500	1,786,000	−171,500	+721,500	+550,000
American Samoa		96,000			
Trust Territory of the Pacific Islands		756,000			
Total	2,000,000,000	2,000,000,000			

Mr. BROCK. Mr. President, Congress, through a number of actions in recent years, the President in his recent budget message, and the people in countless formal and informal ways, have indicated their belief that the highest order of priority should be given to programs to combat pollution and preserve the environment.

In this area, there is a newly emergent and still fledgling technology with regard to many aspects of the problem. But there are some techniques that have been clearly established.

One of these is the procedure for modern sewage treatment. Sewer works work. They get rid of dirty water.

Therefore, it seems only reasonable to me that we ought to be pressing ahead with great vigor to build these facilities as quickly as is humanly possible, consistent with sound planning.

The distinguished Senator from Texas (Mr. BENTSEN) has introduced a bill which is designed to assure that water pollution control programs proceed at a high level.

I am pleased to join with the Senator from Texas as a cosponsor of this legislation.

By Mr. STEVENS:

S. 727. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, today I am introducing for myself and my colleague from Alaska (Mr. GRAVEL) legislation to amend the Internal Revenue Code of 1954 to permit a deduction for expenses incurred by a taxpayer in making repairs and improvements on his personal residence.

Specifically, my bill would permit the deduction of ordinary and necessary expenses paid during the taxable year for the repair or improvement of property used by the taxpayer as his principal residence. Qualified repairs and improvements would include painting, papering, carpentry work, plumbing, electrical work, roofing and glazing, and similar activity. The deduction allowed a taxpayer under this legislation would be

limited to $1,000 in any taxable year. As a further limitation, a deduction would not be permitted for capital expenditures incurred in connection with the taxpayer's personal residence. Also, the deduction would apply only to taxable years ending after the date of enactment of this act.

Mr. President, my bill is designed to accomplish several important purposes. First, it would help to alleviate the tremendous financial burden imposed on residential homeowners, who are subject to ever increasing property taxes, special assessments, and other levies. This tax relief would be somewhat analogous to that already provided to the owners of rental and business property under existing law. As you know, such owners are permitted to deduct specified amounts for the depreciation of their property. In addition, section 167(k) of the Internal Revenue Code permits a 5-year depreciation of rehabilitation expenditures incurred in connection with rental property occupied by low- and moderate-income homeowners.

The enactment of the bill that I am introducing today would also make homeownership more attractive by helping to alleviate prohibitive repair costs. As a result, more people would have the opportunity to experience the pride of homeownership and the sense of community associated with owning and being responsible for one's own dwelling. Moreover, the quality of life in many areas would be significantly improved since more homeowners would have the economic wherewithal to make improvements and repairs which they have postponed for lack of sufficient funds.

This legislation should also have a beneficial impact on carpenters, plumbers, roofers, painters, electricians, and similar workers, all of whom have been adversely affected by the slump in home construction. The beneficial economic consequences to be derived from increased activity in these trades will extend far beyond the workers involved, to many manufacturing and service-related industries which are heavily dependent upon the consumer dollar. Thus, the "ripple" effect should stimulate new activity in many sectors of the economy.

In my State of Alaska, where residential repair costs are from 25 to 50 percent higher than in the lower 48 States, this bill should have a very salutary effect. All of the factors which I have referred to are present but are magnified by our very high costs, often deplorable housing conditions, rigorous natural environment, and high unemployment. As an example, the unemployment rate in my State is usually more than twice the national average, and is even greater in rural Alaska, where it is not uncommon to find villages with from 30- to 100-percent unemployment during certain seasons of the year. In addition, we have more substandard housing than virtually anywhere else under the American flag. In rural Alaska, almost all of the residential dwellings fall far below acceptable standards. The enactment of the legislation which I am introducing today would help to alleviate these conditions by facilitating home improvements and repairs and by stimulating new economic activity and the creation of additional jobs.

Objection may be raised in some quarters that there will be a significant cost to the Government because of this bill. That is not true. Any cost in tax revenue loss will be more than compensated by the additional income in the construction industry this bill will generate. Of course, such additional income will be taxable. It will directly benefit segments of the American economy among the hardest working and most deserving. These are the small laborer, the small contractor, the carpenter, the plumber, the electrician, and the roofer. They are the very people affected by the current economic conditions. This bill will put needed money back into circulation.

Such a program has already been attempted in Alaska. After the 1960 Fairbanks flood, Alaska faced the problem of how to get our people to commence rebuilding their homes. The State government devised a similar incentive. This provided that the State would make a contribution to those people who would agree to commence rebuilding in the winter.

These expenses are no more personal than many other expenses now deductible under Federal tax law. These include interest payments and real property taxes. Homeowners have traditionally been able to transfer their basis when they immediately purchase a new principal residence. Such a bill will specifically assist low income families to own their own homes. This will put the dream of homeownership closer to many families who could otherwise not afford it. This, itself, is a worthy object. It will also encourage the repair of rental dwellings used by the owners as their principal place of residence, thereby benefiting both owner and tenant.

In a time when millions of Americans live in substandard housing, this bill will permit thousands of homes to be repaired. Although the only repairs authorized under this bill are those that are truly necessary, many poor Americans are unable to afford even the most necessary repairs to their homes. This legislation will upgrade the health, safety, and comfort of all these people.

This bill will equalize the treatment accorded different taxpayers. Landlords renting property may now deduct the cost of repairs to the rental portion of the property as business expenses. This will permit them to do the same for the entire dwelling if they live in it themselves.

Mr. President, for all of the reasons that I have outlined today, I urge favorable consideration for this legislation.

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

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

S. 727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as section 220 and by inserting after section 218 the following new section:

"SEC. 219. REPAIR OR IMPROVEMENT OF TAXPAYER'S RESIDENCE.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the ordinary and necessary expenses paid during the taxable year for the repair or improvement (including painting, papering, carpentry work, plumbing, electrical work, roofing and glazing, and any similar items) of property used by the taxpayer as his principal residence.

"(b) LIMITATIONS.—The deduction allowed a taxpayer under this section shall not exceed $1,000 for any taxable year. No deduction may be allowed under this section with respect to any capital expenditure."

(b) The table of sections for such part VII is amended by striking out

"Sec. 219. Cross references."

and inserting in lieu thereof

"Sec. 219. Repair or improvement of taxpayer's residence.

"Sec. 220. Cross references."

(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (8) the following new paragraph:

"(9) REPAIR OR IMPROVEMENT OF TAXPAYER'S RESIDENCE.—The deduction allowed by section 219."

SEC. 2. The amendments made by this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act.

By Mr. STEVENS:

S. 728. A bill to amend the Internal Revenue Code of 1954 to permit a deduction from gross income based upon the cost of living in certain States; and

S. 729. A bill to amend the Internal Revenue Code of 1954 to exempt from tax a portion of the income of individuals not employed by the Federal Government who live in a State in which Federal employees receive an allowance based on living costs and conditions of environment. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, today I am introducing legislation to allow a taxpayer a deduction from gross income based upon the cost of living in certain States, and an additional bill to exempt from Federal taxation a portion of the income of non-Federal employees living in a State in which Federal employees receive an allowance based on living costs and other conditions.

The taxpayers of Alaska and other States where living costs are significantly above the national average, have been unreasonably burdened by virtue of their residences. The first bill would allow an individual to deduct a percentage of the total amount of personal exemption equal to the percentage by which the cost of living in his State exceeds the average national cost of living for that taxable year. The deduction would be limited to the percentage of time during which the taxpayer resided within the State on which he bases the deduction. The Secretary of the Treasury would be delegated the authority of determining whether a particular State's cost of living significantly exceeds the national average.

The most current Bureau of Labor statistics reveal that Alaska and Hawaii rank as the areas in which it costs the most to live and maintain a family at

any income level. Anchorage, Alaska ranks as the most expensive city in the entire Nation in which to live. Honolulu, Hawaii, ranks second in this regard with all other cities significantly below these top two. The Alaskan price structure, which is largely due to the tremendous costs incurred in transporting goods and material to Alaska, has imposed a hardship on citizens with fixed incomes and deters prospective residents and business concerns from settling within the State.

My alternative bill providing tax equality between Federal and non-Federal employees would rectify a long-standing inequity in States with high living costs. At present, the Federal Government provides a 25-percent cost-of-living adjustment to civil service employees who reside in Alaska. This nontaxable adjustment is added to the base pay of Federal employees but is not available to non-Federal employees. Notwithstanding the 25-percent adjustment, Federal employees in Alaska are not truly compensated for the extremely high prices which they must pay for food, housing and other essential expenses because the cost of living percentage greatly exceeds the 25-percent assistance they receive. Therefore, the tax burden upon workers in the private sector is inequitably repressive and relief is required to equalize their tax responsibility with those federally employed. Both bills which I have introduced in this regard contain limitations upon Federal employees who receive a nontaxable cost of living allowance.

I believe that the combination of these two bills will provide much needed Federal tax relief to the beleaguered taxpayer of my State and certain other States where the cost of living is significantly above the national average. Moreover, these bills should help to accelerate the economic and social progress of these States by stimulating business relocation therein and not discouraging prospective residents from moving thereto. Accordingly, I urge the careful consideration of this legislation.

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

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

S. 728

A bill to amend the Internal Revenue Code of 1954 to permit a deduction from gross income based upon the cost of living in certain States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 218 as 219, and inserting after section 217 the following new section:

"SEC. 218. COST OF LIVING DEDUCTION

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction a percentage of the total amount of the personal exemptions to which he is entitled equal to the percentage (determined by the Secretary or his delegate under subsection (c)) by which the cost of living in the State in which he resides during the taxable year exceeds the average cost of living in the United States for that year.

"(b) LIMITATIONS.—The amount of the deduction allowable under subsection (a) shall be adjusted appropriately for any period of time during a taxable year during which the taxpayer was not residing in the State on which he bases his deduction under such subsection. In the case of a taxpayer who, during any taxable year, resides in more than one State which qualified him for such deduction, the amount of the deduction shall reflect proportionately the calendar years which fall within his taxable year.

(1) Federal Employees. The provisions of subsection (a) shall not apply to amounts received by an employee of the Government of the United States as pay and allowances from the Government.

"(c) DETERMINATIONS BY THE SECRETARY.—On or before December 1 of each year, the Secretary or his delegate shall determine with respect to each State whether the cost of living in such State is greater than the average cost of living in the United States. If the Secretary or his delegate determines that the cost of living in any State is greater than the average cost of living in the United States, he shall determine and make available the percentage (rounding off to the nearest whole percent) by which the cost of living in such State exceeds the average cost of living in the United States. The determination shall be made for each year on the basis of indices and other information available from all departments and agencies of the Government covering the first nine months of such year, and the determination of the cost of living in each State shall be made on the basis of such indices and information applicable to the three largest cities or metropolitan areas in such State.

"(d) FINALITY OF DETERMINATIONS.—Determinations by the Secretary or his delegate under subsection (c) shall be final and shall not be subject to review by any other officer of the United States or by any court.

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) The table of sections for such part VII is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 218. Cost of living deduction.

"Sec. 219. Cross references."

SEC. 2. Section 62 of such Code (relating to the definition of adjusted gross income) is amended by inserting after paragraph (9) the following new paaragraph:

"(10) COST OF LIVING DEDUCTION.—The deduction allowed by section 218."

SEC. 3. The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1970.

S. 729

A bill to amend the Internal Revenue Code of 1954 to exempt from tax a portion of the income of individuals not employed by the Federal Government who live in a State in which Federal employees receive an allowance based on living costs and conditions of environment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) 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 125, and inserting after section 123 the following new section:

"SEC. 124. PARTIAL EXCLUSION OF INCOME OF INDIVIDUALS RESIDING IN CERTAIN STATES.

"(a) GENERAL RULE.—In the case of an individual who resides and is employed in a State in which employees of the Government of the United States receive an allowance under section 5941 of title 5, United States Code, gross income does not include a percentage of income received during the taxable year as compensation for personal services (including fees, commissions, and similar items) equal to the percentage of basic pay received by employees of the Government of the United States as an allowance under such section.

"(b) LIMITATIONS.—

"(1) FEDERAL EMPLOYEES.—The provisions of subsection (a) shall not apply to amounts received by an employee of the Government of the United States as pay and allowances from the Government.

"(2) RESIDENTS FOR LESS THAN A TAXABLE YEAR.—If an individual does not reside in such a State for the entire taxable year, the provisions of subsection (a) shall apply only to compensation attributable to the period during which such individual resides in such State.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such part III is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Partial exclusion of income of individuals residing in certain States.

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

SEC. 2. The amendments made by this Act shall apply to taxable years beginning after December 31, 1971.

By Mr. JACKSON (for himself, Mr. GURNEY, and Mr. CHILES):

S. 734. A bill to authorize the Secretary of the Interior to establish the Man In Space National Historic Site at Cape Kennedy, Fla. Referred to the Committee on Interior and Insular Affairs.

MAN IN SPACE NATIONAL HISTORIC SITE

Mr. JACKSON. Mr. President, I introduce for myself and the two distinguished Senators from the State of Florida (Mr. GURNEY and Mr. CHILES) a bill to authorize the Secretary of the Interior to establish a Man In Space National Historic Site at Cape Kennedy, Fla.

It is the purpose of this measure to preserve for future generations the site from which brave men took this Nation on its first tentative steps into the space beyond the earth. A little less than 12 years ago, on May 5, 1961, Comdr. Alan Shepard was launched from this site into the first American suborbital flight of a man in space. From that first short flight, in only a dozen years, we have reached the moon and are now embarked upon bringing the benefits of our space program down to earth through the Sky Lab and other manned and unmanned projects.

With the passage of time, the lifting of these brave men from the earth to outer space on thundering columns of flame has become almost commonplace. Let us not forget the excitement that swept our Nation and captured the imagination of the world during those early days of the space program. It is only fitting that we set aside this site to commemorate and pay tribute to the brave men of our space program and to perhaps capture for all time the breathless expectancy and thrill which those first flights evoked in our people. The

historic events which took place at this site truly ushered in the space age in America.

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

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

S. 734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized to establish, by publication in the Federal Register, the area consisting of approximately 29.4 acres of land and comprising launch complex 5 and 6 (including a blockhouse and adjoining ready room, office space, and two launch pads), located at Cape Kennedy, Florida, as the Man in Space National Historic Site.

(b) Jurisdiction over the property referred to in subsection (a) of this section is hereby transferred to the Secretary of the Interior to enable the Secretary to carry out the purposes of this Act.

SEC. 2. The Man in Space National Historic Site shall be administered by the Secretary of the Interior, through the National Park Service, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916, as amended and supplemented, and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935.

SEC. 3. (a) In furtherance of the purposes of this Act, the Secretary of the Interior and the Secretary of the Air Force shall, from time to time, consult with each other with a view to assuring that the administration of the Man in Space National Historic Site and the Air Force Museum located adjacent to the historic site shall be carried out so as to provide for an effective and complementary administration of both the aforementioned historic site and Air Force Museum.

(b) In carrying out the provisions of this Act, the Secretary of the Interior is authorized to enter into cooperative agreements with other Federal departments and agencies to assist in the preservation and interpretation of the Man in Space National Historic Site.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. FONG:

S. 735. A bill to strengthen and improve the Older Americans Act of 1965, and for other purposes. Referred to the Committee on Labor and Public Welfare.

OLDER AMERICANS COMPREHENSIVE SERVICES ACT OF 1973

Mr. FONG. Mr. President, today it is my great pleasure to introduce legislation designed to expand and improve the provisions of the Older Americans Act of 1965, which expired on June 30, 1972. My bill would expand the act to include a number of new programs to help the Nation's older citizens. Two of these new programs, the Older American Community Service Employment Act and the Middle-Aged and Older Workers Training Act, were cosponsored by me as separate bills (S. 555 and S. 1307) in the 92d Congress. These much needed programs are incorporated as titles IX and X in the new Older Americans Act of 1973, which I am proposing today.

As the ranking Republican member of the Special Committee on Aging, I have a special interest in improving the well-being of our older Americans.

I believe that the national policy on aging must be committed to the concept of unlimited opportunity for all older Americans. The multiplicity of needs facing our growing older population—now numbering over 20 million persons past 65—and the complexity of problems in meeting those needs underscores the importance of early enactment of a bill to improve and expand the Older Americans Act of 1965.

Early enactment of such a bill will provide our older Americans with an opportunity to continue to play a viable role in today's society and to live their remaining lives in dignity.

My bill, Mr. President, is essentially the same bill as contained in the conference version last year of H.R. 15657—which was pocket vetoed—except for two major areas. One change is the deletion in title V of direct Federal grants for the construction of multipurpose senior citizens centers, placing the emphasis on providing Federal mortgage insurance for loans rather than on direct grants. This was done to pare down the cost of this section, while still providing sufficient incentive and means to achieve the intended goal—the construction of multipurpose senior citizen centers. It is my hope that this change will help to achieve fiscal efficiency, while at the same time, achieving the desired purpose.

The second major change from the conference report of H.R. 15657, is the substitution in title III of the administration's formula found in S. 3391, which was introduced in the last Congress.

Title III concerns itself with direct grants to the States for community programs on aging. Many different formulas for the distribution of these grants have been studied, but I still feel the administration's formula, as contained in S. 3391, appears to be the most equitable, especially for the smaller States, such as my own State of Hawaii. Under this formula, each State would be guaranteed an initial 1 percent of the total amount authorized and appropriated, plus a percentage of the remainder of the funds, based upon the ratio of older Americans—over 65—in each State compared to the total number of Americans over 65 in the United States—20 million. Each State would be guaranteed a minimum allotment of $1,000,000 based on the same $100 million authorization that was provided for area planning and social service programs in the conference report of H.R. 15657, which was passed in the closing days of the second session of the 92d Congress and subsequently vetoed by the President.

Title IX, "Community Service Employment for Older Americans," would foster and promote useful part-time work opportunities in community service activities for unemployed low-income persons who are 55 years old or older and who have poor employment prospects. These jobs would be in the fields of education, social services, recreational services, conservation, environmental restoration, and economic development. The programs created by title IX are structured in such a way as to draw upon the experience of numerous pilot and demonstration projects conducted by the Department of Labor under its operation mainstream program. It is estimated that as many as 40,000 to 60,000 jobs could be created under the provisions of this title.

Title X, the "Middle-Aged and Older Workers Training Act," is designed to establish and assist training programs and related supportive services which will provide middle-aged and older workers a full opportunity for remunerative and meaningful employment. Under this title, the Secretary of Labor is authorized to establish a comprehensive mid-career development service program, to be administered by the Manpower Administration in the Department of Labor, to provide manpower training, counseling, and special supportive services to middle-aged and older workers.

I believe that these two titles, IX and X, should be included in any older Americans bill submitted to Congress, not only because I cosponsored these original bills in the form of S. 555 and S. 1307 in the last Congress, but also because there is great need for these types of programs.

Even in this period of economic prosperity and growth, middle-aged and older workers are finding it increasingly difficult to regain employment when out of work. The incidence of unemployment, especially long-term unemployment, with the resultant deterioration of skill, morale, and employer acceptability, is higher among workers age 45 and over than among the younger workers.

According to the conference report on H.R. 15657, more than a million men between the ages of 55 and 64 have given up the active search for work and thousands of men and women between the ages of 62 to 64 have retired with inadequate benefits.

The loss to the economy of their potential production of goods and services, together with the costs of unemployment compensation and public assistance, can be reckoned in billions of dollars.

Providing such individuals with opportunities for useful work will increase their incomes, benefit their physical and mental well-being, and strengthen the Nation's economy.

Finally my bill, as H.R. 15657 did, includes those very important provisions which upgrade the Administration on Aging in the Department of Health, Education, and Welfare by transferring it from the welfare-oriented Social and Rehabilitation Service to the office of the HEW Secretary.

Early enactment to extend and improve the Older Americans Act of 1965 is mandatory in order to insure our older Americans the opportunity to continue to contribute to and to play a viable role in, today's society.

I recognize that the precise nature of such an extension has been the object of much discussion. However, no matter what emerges as the exact language of the amendments to the Older Americans Act and is reported from the Senate Committee on Labor and Public Welfare,

I believe we must produce a result compatible with the original intent of Congress in 1965—to give the needs and aspirations of older Americans very high status and visibility in the Federal Government.

Mr. President, I ask unanimous consent that a table showing the allotments to each State under my bill, the text of the bill entitled "Older Americans Comprehensive Services Act of 1973," and the attached summary of that bill be inserted in full in today's RECORD at this point.

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

ALLOCATIONS TO STATES UNDER OLDER AMERICANS COMPREHENSIVE SERVICES ACT OF 1972

The following is a list of the 50 States, the District of Columbia, and Territories which shows the allotments that they would receive under my bill. My bill uses the same formula as found in the Administration's bill, S. 3391 of the previous Congress:

	Allotment
Alabama	$1,740,600
Alaska	1,013,800
Arizona	1,368,200
Arkansas	1,538,200
California	4,098,600
Colorado	1,427,800
Connecticut	1,657,800
Delaware	1,101,200
District of Columbia	1,161,000
Florida	3,244,800
Georgia	1,837,200
Hawaii	1,101,200
Idaho	1,156,400
Illinois	3,488,600
Indiana	2,122,400
Iowa	1,795,800
Kansas	1,607,200
Kentucky	1,768,200
Louisiana	1,699,200
Maine	1,262,200
Maryland	1,680,800
Massachusetts	2,449,000
Michigan	2,715,800
Minnesota	1,929,200
Mississippi	1,506,000
Missouri	2,274,200
Montana	1,256,400
Nebraska	1,418,600
Nevada	1,069,000
New Hampshire	1,179,400
New Jersey	2,587,000
New Mexico	1,161,000
New York	5,448,200
North Carolina	1,943,000
North Dakota	3,272,400
Ohio	1,680,800
Oklahoma	1,515,200
Oregon	1,515,200
Pennsylvania	3,893,400
Rhode Island	1,234,600
South Carolina	1,432,400
South Dakota	1,184,000
Tennessee	1,869,400
Texas	3,254,000
Utah	1,174,800
Vermont	1,110,400
Virginia	1,832,600
Washington	1,731,400
West Virginia	1,441,600
Wisconsin	2,076,400
Wyoming	1,069,000
American Samoa	500,000
Guam	500,000
Puerto Rico	1,349,600
Trust Territory	500,000
Virgin Islands	500,000

S. 735

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 Comprehensive Services Amendments of 1973".

TITLE I—DECLARATION OF OBJECTIVES

FINDINGS AND PURPOSES

SEC. 101. The Congress finds that millions of older citizens in this Nation are suffering unnecessary harm from the lack of adequate services. It is therefore the purpose of this Act, in support of the objectives of the Older Americans Act of 1965, to—

(1) make available comprehensive programs which include a full range of health, education, and social services to our older citizens who need them,

(2) give full and special consideration to older citizens with special needs in planning such programs and, pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need,

(3) provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to our older citizens, and, where applicable, also furnish meaningful employment opportunities for many individuals, including older persons, young persons, and volunteers from the community, and

(4) insure that the planning and operation of such porgrams will be undertaken as a partnership of older citizens, parents, community, and community, State and local governments, with appropriate assistance from the Federal Government.

SEC. 102. Section 101(8) of the Older Americans Act of 1965 is amended by inserting after "services" the following: ", including access to low-cost transportation,".

TITLE II—ADMINISTRATION ON AGING

SEC. 201. (a) Section 201 of the Older Americans Act of 1965 is amended to read as follows:

"ESTABLISHMENT OF ADMINISTRATION ON AGING

"SEC. 201. (a) There is established in the Office of the Secretary an Administration on Aging (hereinafter in this Act referred to as the 'Administration') which shall be headed by a Commissioner on Aging (hereinafter in this Act referred to as the 'Commissioner'). Except for title VI and as otherwise specifically provided by the Older Americans Comprehensive Services Act of 1972, the Administration shall be the principal agency for carrying out this Act. In the performance of his functions, he shall be directly responsible to the Secretary and not to or through any other officer of that Department. The Commissioner shall not delegate any of his functions to any other officer who is not directly responsible to him unless he first submits a plan for such delegation to the Congress. Such delegation is effective at the end of the first period of thirty calendar days of continuous session of Congress after the date on which the plan for such delegation is transmitted to it, unless between the day of transmittal and the end of the thirty-day period either House passes a resolution stating in substance that that House does not favor such delegation. For the purpose of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period. Under provisions contained in a reorganization plan, a provision of the plan may be effective.

"(b) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate."

(b)(1) Section 202(4) of the Older Americans Act of 1965 is amended to read as follows:

"(4) develop plans, conduct and arrange for research in the field of aging, and assist in the establishment of and carry out programs designed to meet the needs of older persons for social services, including nutrition, hospitalization, preretirement training, continuing education, low-cost transportation and housing, and health services;"

(2) Section 202 of the Older Americans Act of 1956 is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraphs:

"(9) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under authority of this Act;

"(10) provide for the coordination of Federal programs and activities related to such purposes;

"(11) coordinate, and assist in, the planning and development by public (including Federal, State, and local agencies) and nonprofit private organizations of programs for older persons, with a view to the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such persons;

"(12) convene conferences of such authorities and officials of public (including Federal, State, and local agencies) and nonprofit private organizations concerned with the development and operation of programs for older persons as the Commissioner deems necessary or proper for the development and implementation of policies related to the purposes of this Act;

"(13) develop and operate programs providing services and opportunities as authorized by this Act which are not otherwise provided by existing programs for older persons;

"(14) carry on a continuing evaluation of the programs and activities related to the purposes of this Act, with particular attention to the impact of medicare and medicaid, the Age Discrimination Act of 1967, and the programs of the National Housing Act relating to housing for the elderly and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for older people;

"(15) provide information and assistance to private nonprofit organizations for the establishment and operation by them of programs and activities related to the purposes of this Act; and

"(16) develop, in coordination with other agencies, a national plan for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the purposes of this Act, and conduct and provide for the conducting of such training."

(3) ection 202 of the Act (as amended by the preceding provisions of this subsection) is further amended by inserting "(a)" after "Sec. 202.", and by adding at the end thereof the following new subsection:

"(b) In executing his duties and functions under this Act and carrying out the programs and activities provided for by this Act, the Commissioner, in consultation with the Director of Action, shall take all possible steps to encourage and permit voluntary groups active in social services, including youth organizations active at the high school or college levels, to participate and be involved individually or through representative groups in such programs or activities to the maximum extent feasible, through the performance of advisory or consultative functions, and in other appropriate ways."

(c) Title II of the Older Americans Act of 1965 is further amended by adding at the end thereof the following new sections;

"FEDERAL AGENCY COOPERATION

"SEC. 203. Federal agencies proposing to establish programs substantially related to the purposes of this Act shall consult with the Administration on Aging prior to the establishment of such services, and Federal

agencies administering such programs shall cooperate with the Administration on Aging in carrying out such services.

"THE NATIONAL INFORMATION AND RESOURCE CLEARING HOUSE FOR THE AGING

"SEC. 204. (a) The Commissioner is authorized and directed to establish and operate a National Information and Resource Clearing House for the Aging which shall—

"(1) collect, analyze prepare, and disseminate information related to the needs and interests of older persons;

"(2) obtain information concerning older persons from public and private agencies and other organizations serving the needs and interests of older persons and furnish, upon request, information to such agencies and organizations, including information developed by Federal, State, and local public agencies with respect to programs of such agencies designed to serve the needs and interests of older persons;

"(3) encourage the establishment of State and local information centers and provide technical assistance to such centers including sources established under section 304(c)(3) and section 305(a)(7), to assist older persons to have ready access to information; and

"(4) carry out a special program for the collection and dissemination of information relevant to consumer interests of older persons in order that such older persons may more readily obtain information concerning goods and services needed by them.

"(b) The Commissioner shall take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to older persons. To the extent practicable, the Commissioner shall carry out his functions under this subsection through the National Information and Resource Clearing House for the Aging.

"(c) There are authorized to be appropriated to carry out the purposes of this section $750,000 for the fiscal year ending June 30, 1973, $1,000,000 for the fiscal year ending June 30, 1974, and $1,250,000 for the fiscal year ending June 30, 1975.

"FEDERAL COUNCIL ON THE AGING

"SEC. 205. (a) There is established a Federal Council on the Aging to be composed of fifteen members appointed by the President with the advice and consent of the Senate for terms of three years without regard to the provisions of title 5, United States Code. Members shall be appointed so as to be representative of older Americans, national organizations with an interest in aging, business, labor, and the general public. At least five of the members shall themselves be older persons.

"(b)(1) Of the members first appointed, five shall be appointed for a term of one year, five shall be appointed for a term of two years, and five shall be appointed for a term of three years, as designated by the President at the time of appointment.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

"(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at a rate not to exceed the daily rate specified 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, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The President shall designate the Chairman from among the members appointed to the Council. The Council shall meet at the call of the Chairman but not less often than four times a year. The Secretary and the Commissioner on Aging shall be ex officio members of the Council.

"(d) The Council shall—

"(1) advise and assist the President on matters relating to the special needs of older Americans;

"(2) assist the Commissioner in making the appraisal of needs required by section 402;

"(3) review and evaluate, on a continuing basis, Federal policies regarding the aging and programs and other activities affecting the aging conducted or assisted by all Federal departments and agencies for the purpose of appraising their value and their impact on the lives of older Americans; and

"(4) serve as a spokesman on behalf of older Americans by making recommendations to the President, to the Secretary, the Commissioner, and to the Congress with respect to Federal policies regarding the aging and federally conducted or assisted programs and other activities relating to or affecting them;

"(5) inform the public about the problems and needs of the aging, in consultation with the National Information and Resource Clearing House for the Aging, by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof, and by issuing publications and reports; and

"(6) provide public forums for discussing and publicizing the problems and needs of the aging and obtaining information relating thereto by conducting public hearings, and by conducting or sponsoring conferences, workshops, and other such meetings.

"(e) The Secretary and the Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

"(f) Beginning with the year 1974 the Council shall make such interim reports as it deems advisable and an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

"(g) The Council shall undertake a study of the interrelationships of benefit programs for the elderly operated by Federal, State, and local government agencies. Following the completion of this study, the President shall submit to Congress no later than eighteen months after the enactment of this Act recommendations for bringing about greater uniformity of eligibility standards, and for eliminating the negative impact that one program's standards may have on another.

"(h) The Council shall undertake a study of the combined impact of all taxes on the elderly—including but not limited to income, property, sales, social security taxes. Upon completion of this study, but no later than eighteen months after enactment of this Act, the President shall submit to Congress, and to the Governor and legislatures of the States, the results thereof and such recommendations as he deems necessary.

"ADMINISTRATION OF THE ACT

"SEC. 206. (a) In carrying out the purposes of this Act, the Commissioner is authorized to:

"(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

"(2) provide short-term training and technical instruction;

"(3) conduct research and demonstrations;

"(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

"(5) provide staff and other technical assistance to the Federal Council on the Aging.

"(b) In administering his functions under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and to pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

"(c) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"EVALUATION

"SEC. 207. (a) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

"(b) The Secretary may not make grants or contracts under section 308 or title IV of this Act until he has developed and published general standards to be used by him in evaluating the programs and projects assisted under such section or title. Results of evaluations conducted pursuant to such standards shall be included in the reports required by section 208.

"(c) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

"(d) The Secretary shall annually publish summaries of the results of evaluative research and evaluation of program and project impact and effectiveness, the full contents of which shall be available to Congress and the public.

"(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

"(f) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

"(g) The Secretary is authorized to use such sums as may be required, but not to exceed 1 per centum of the funds appropriated under this Act, or $1,000,000 whichever is greater, to conduct program and project evaluations (directly, or by grants or contracts) as required by this title. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly.

"REPORTS

"SEC. 208. Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this Act.

Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.

"JOINT FUNDING OF PROJECTS

"SEC. 209. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided.

"ADVANCE FUNDING

"SEC. 210. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

"(b) In order to effect a transition to the advance funding method of timing appropriation action, the amendment made by subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year."

SEC. 202. Title VIII of the Older Americans Act of 1965 is hereby repealed.

TITLE III—GRANTS FOR STATE AND AREA PROGRAMS

SEC. 301. The Older Americans Act of 1965 is amended by striking out title III and inserting in lieu thereof the following new title:

"TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

"PURPOSE

"SEC. 301. It is the purpose of this title to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve older persons by entering into new cooperative arrangements with each other and with providers of social services for planning for the provision of, and providing, social services and, where necessary, to reorganize or reassign functions, in order to—

"(1) secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services; and

"(2) remove individual and social barriers to economic and personal independence for older persons.

"DEFINITIONS

"SEC. 302. For purposes of this title—

"(1) The term 'social services' means any of the following services which meet such standards as the Commissioner may prescribe:

"(A) health, continuing education, welfare, informational, recreational, homemaker, counseling, or referral services;

"(B) transportation services where necessary to facilitate access to social services;

"(C) services designed to encourage and assist older persons to use the facilities and services available to them;

"(D) services designed to assist older persons to obtain adequate housing;

"(E) services designed to assist older persons in avoiding institutionalization, including preinstitutionalization evaluation and screening, and home health services; or

"(F) any other services;

if such services are necessary for the general welfare of older persons.

"(2) The term 'unit of general purpose local government' means (A) a political subdivision of the State whose authority is broad and general and is not limited to only one function or a combination of related functions, or (B) an Indian tribal organization.

"(3) The term 'comprehensive and coordinated system' means a system for providing all necessary social services in a manner designed to—

"(A) facilitate accessibility to and utilization of all social services provided within the geographic area served by such system by any public or private agency or organization;

"(B) develop and make the most efficient use of social services in meeting the needs of older persons; and

"(C) use available resources efficiently and with a minimum of duplication.

"AREA PLANNING AND SOCIAL SERVICE PROGRAMS

"SEC. 303. (a) There are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, $200,000,000 for the fiscal year ending June 30, 1974, and $300,000,000 for the fiscal year ending June 30, 1975, to enable the Commissioner to make grants to each State with a State plan approved under section 305 for paying part of the cost (pursuant to subsection (e) of this section) of—

"(1) the administration of area plans by area agencies on aging designated pursuant to section 304(a)(2)(A), including the preparation of area plans on aging consistent with section 304(c) and the evaluation of activities carried out under such plans; and

"(2) the development of comprehensive and coordinated systems for the delivery of social services.

"(b)(1) From the sums authorized to be appropriated for the fiscal year ending June 30, 1973 under subsection (a) of this section, (A) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-half of 1 per centum of such sum, (B) each other State shall be allotted an amount equal to 1 per centum of such sum, and (C) from the remainder of the sum so appropriated, each State shall be allotted an additional amount which bears the same ratio to such remainder as the population aged sixty-five or over in such State bears to the population aged sixty-five or over in all States.

"(2) From the sums appropriated for the fiscal year ending June 30, 1974 and for the fiscal year ending June 30, 1975, each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty-five or over in such State bears to the population aged sixty-five or over in all States, except that (A) no State shall be allotted less than 1 per centum of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted no less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (C) no State shall be allotted an amount less than that State received for the fiscal year ending June 30, 1973. For the purpose of the exception contained in clause (A) of this paragraph only, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(3) The number of persons aged sixty-five or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent and satisfactory data available to him.

"(c) Whenever the Commission determines that any amount allotted to a State for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, he shall make such amount available for carrying out such purpose to one or more other States to the extent he determines such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year pursuant to the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under the preceding provisions of this section) for such year.

"(d) The allotment of a State under this section for the fiscal year ending June 30, 1973, shall remain available until the close of the following fiscal year.

"(e) From a State's allotment under this section for a fiscal year—

"(1) such amount as the State agency determines, but not more than 15 per centum thereof, shall be available for paying such percentage as such agency determines, but not more than 75 per centum, of the cost of administration of area plans; and

"(2) such amount as the State agency determines, but not more than 20 per centum thereof, shall be available for paying such percentage as such agency determines, but not more than 75 per centum, of the cost of social services which are not provided as a part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

The remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 90 per centum of the cost of social services provided in the State as a part of comprehensive and coordinated systems in planning and service areas for which there is an area plan approved by the State agency.

"ORGANIZATION

"State Organization

"SEC. 304. (a) In order for a State to be eligible to participate in the programs of grants to States from allotments under section 303 and section 306—

"(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency (hereinafter in this title referred to as 'the State agency') to: (A) develop the State plan to be submitted to the Commissioner for approval under section 305, (B) administer the State plan within such State, (C) be primarily responsible for the coordination of all State activities related to the purposes of this Act, (D) review and comment on, at the request of any Federal department or agency, any application from any agency or organization within such State to such Federal department or agency for assistance related to meeting the needs of older persons; and (E) divide the entire State into distinct areas (hereinafter in this title referred to as 'planning and service areas'), after considering the geographical distribution of individuals aged sixty and older in the State, the incidence of the need for social services (including the numbers of older persons with low incomes residing in such areas), the distribution of resources available to provide such services, the boundaries of existing areas within the State which were drawn for the planning or administration of social services programs, the location of units of general purpose local government within the State, and any other relevant factors: *Provided*, That any unit of general purpose local government which has a population aged sixty or over of fifty thousand or more or which contains 15 per centum or more of the State's population aged sixty or over shall be designated as a planning and service area and the State may include in any planning and service area designated pursuant to this proviso such additional areas adjacent to the unit of general purpose local government so designated as the State determines to be necessary for the effective administration of the programs authorized by this title, and

"(2) the State agency designated pursuant to paragraph (1) shall—

"(A) determine for which planning and service areas an area plan will be developed, in accordance with subsection (c) of this section, and for each such area designate, after consideration of the views offered by the unit or units of general purpose local government in such area, a public or nonprofit private agency or organization as the area agency on aging for such area; and

"(B) provide assurances satisfactory to the Commissioner that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of social services provided under such plan.

"Area Organization

"(b) An area agency on aging designated under subsection (a) must be—

"(1) an established office of aging which is operating within a planning and service area designated pursuant to subsection (a) of this section, or

"(2) any office or agency of a unit of general purpose local government, which is designated for this purpose by the chief elected official or officials of such unit, or

"(3) any office or agency designated by the chief elected official or officials of a combination of units of general purpose local government to act on behalf of such combination for this purpose, or

"(4) any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the designated State agency and which can engage in the planning or provision of a broad range of social services within such planning and service area,

and must provide assurance, found adequate by the State agency, that it will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program pursuant to the plan within the planning and service area. In designating an area agency on aging, the State agency shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

"Area Plans

"(c) In order to be approved by the State agency, an area plan for a planning and service area shall be developed by the area agency on aging designated with respect to such area under subsection (a) and shall—

"(1) provide for the establishment of a comprehensive and coordinated system for the delivery of social services within the planning and service area covered by the plan, including determining the need for social services in such area (taking into consideration, among other things, the numbers of older persons with low incomes residing in such area), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of social services in such area, for the provision of such services to meet such need;

"(2) in accordance with criteria established by the Commissioner by regulation relating to priorities, provide for the initiation, expansion, or improvement of social services in the planning and service area covered by the area plan;

"(3) provide for the establishment and maintenance of information and referral sources in sufficient numbers to assure that all older persons within the planning and service area covered by the plan will have reasonably convenient access to such sources. For purposes of this section and section 305 (a)(7), an information and referral source is a location where the State or other public or private agency or organization (A) maintains current information with respect to the opportunities and services available to older persons, and develops current lists of older persons in need of services and opportunities, and (B) employs a specially trained staff to inform older persons of the opportunities and services which are available, and assists such persons to take advantage of such opportunities and services; and

"(4) provide that the area agency on aging will—

"(A) conduct periodic evaluations of activities carried out pursuant to the area plan;

"(B) render appropriate technical assistance to providers of social services in the planning and service area covered by the area plan;

"(C) where necessary and feasible, enter into arrangements, consistent with the provisions of the area plan, under which funds under this title may be used to provide legal services to older persons in the planning and service area carried out through federally assisted programs or other public or nonprofit agencies;

"(D) take into account, in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

"(E) where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunties for older persons to aid or assist on a voluntary basis, in the delivery of such services to children; and

"(F) establish an advisory council, consisting of representatives of the target population and the general public, to advise the area agency on all matters relating to the administration of the plan and operations conducted thereunder."

"STATE PLANS

"SEC. 305. (a) In order for a State to be eligible for grants for a fiscal year from its allotments under section 303 and section 306, except as provided in section 307(a), it shall submit to the Commissioner a State plan for such year which meets such criteria as the Commissioner may prescribe by regulation and which—

"(1) provides that the State agency will evaluate the need for social services within the State and determine the extent to which existing public or private programs meet such need;

"(2) provides for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of an individual employed in 'accordance with such methods') as are necessary for the proper and efficient administration of the plan;

"(3) provides that the State agency will make such reports, in such form, and containing such information, as the Commissioner may from time to time require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports:

"(4) provides that the State agency will conduct periodic evaluations of activities and projects carried out under the State plan;

"(5) establishes objectives, consistent with the purposes of this title, toward which activities under the plan will be directed, identifies obstacles to the attainment of those objectives, and indicates how it proposes to overcome those obstacles;

"(6) provides that each area agency on aging designated pursuant to section 304(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with section 304(c);

"(7) provides for establishing and maintaining information and referral sources in sufficient numbers to assure that all older persons in the State who are not furnished adequate information and referral sources under section 304(c)(3) will have reasonably convenient access to such sources;

"(8) provides that no social service will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such service by the State agency or an area agency is necessary to assure an adequate supply of such service; and

"(9) provides that preference shall be given to persons aged sixty or over for any staff positions (full time or part time) in State and area agencies for which such persons qualify.

"(b) The Commissioner shall approve any State plan which he finds fulfills the requirements of subsection (a) of this section.

"(c) The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 304, without first affording the State reasonable notice and opportunity for a hearing.

"(d) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency, finds that—

"(1) the State is not eligible under section 304,

"(2) the State plan has been so changed that it no longer complies with the provisions of subsection (a), or

"(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a),

the Commissioner shall notify such State agency that no further payments from its allotments under section 303 and section 306 will be made to the State (or, in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State from its allotments under section 303 and section 306 (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Commissioner shall, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of section 304 and section 306. Any such payment or payments shall be matched in the proportions specified in sections 303 and 306.

"(e) A State which is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall

likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

"PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

"SEC. 306. (a) (1) There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $20,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for the fiscal year ending June 30, 1975, to make grants to States for paying such percentages as each State agency determines, but not more than 75 per centum, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for social services within the State, the dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of social service.

"(2) Any sums allotted to a State under this section for covering part of the cost of the administration of its State plan which the State determines is not needed for such purpose may be used by such State to supplement the amount available under section 303(e)(1) to cover part of the cost of the administration of area plans.

"(b)(1) From the sums appropriated for any fiscal year under subsection (a) of this section, each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty-five or over in such State bears to the population aged sixty-five or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made, or $100,000, whichever is greater, and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted no less than one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made, or $50,000, whichever is greater. For the purpose of the exception contained in clause (A) of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) The number of persons aged sixty-five or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(c) The amount of any State's allotment under subsection (b) for any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (b) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty-five or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for that year.

"(d) The allotment of a State under this section for the fiscal year ending June 30, 1973, shall remain available until the close of the following fiscal year.

"PAYMENTS

"SEC. 307. (a) Payments of grants or contracts under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available pursuant to section 306 the Commissioner may advance to a State which does not have a State plan approved under section 305 such amounts as he deems appropriate for the purpose of assisting such State in developing a State plan.

"(b) Beginning with the fiscal year ending June 30, 1975, not less than 25 per centum of the non-Federal share (pursuant to section 303(e)) of the total expenditures under the State plan shall be met from funds from State or local public sources.

"(c) A State's allotment under section 303 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 305 are less than its expenditures from such sources for the preceding fiscal year.

"MODEL PROJECTS

"SEC. 308. (a) The Commissioner may, after consultation with the State agency, make grants to any public or nonprofit private agency or organization or contracts with any agency or organization within such State for paying part or all of the cost of developing or operating statewide, regional, metropolitan area, county, city, or community model projects which will expand or improve social services or otherwise promote the well-being of older persons. In making grants and contracts under this section, the Commissioner shall give special consideration to projects designed to—

"(1) assist in meeting the special housing needs of older persons by (A) providing financial assistance to such persons, who own their own homes, necessary to enable them to make the repairs and renovations to their homes which are necessary for them to meet minimum standards, (B) studying and demonstrating methods of adopting existing housing, or construction of new housing, to meet the needs of older persons suffering from physical disabilities, and (C) demonstrating alternative methods of relieving older persons of the burden of real property taxes on their homes;

"(2) improve the transportation services available to older persons by (A) establishing special transportation subsystems for older persons or similar groups with similar mobility restrictions, (B) providing portal-to-portal service and demand actuated services, (C) payment of subsidies to transportation systems to enable them to provide transportation services to older persons on a reduced rate basis, with special emphasis on transportation necessary to enable older persons to obtain health services, (D) payments directly to older persons to enable them to obtain reasonable and necessary transportation services, (E) programs to study the economic and service aspects of transportation for older persons living in urban or rural areas, and (F) programs to study transportation and social service delivery interface;

"(3) meet the needs of unemployed low-income older persons who are unable, because of physical condition, obsolete or inadequate skills, declining economic conditions, or other causes of a lack of employment opportunity to secure appropriate employment, which will enable such persons to participate in projects for public service in such fields as environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, and other fields of human betterment and community improvement;

"(4) provide continuing education to older persons designed to enable them to lead more productive lives by broadening the educational, cultural, or social awareness of such older persons, emphasizing, where possible, free tuition arrangements with colleges and universities;

"(5) provide preretirement education, information, and relevant services (including the training of personnel to carry out such programs and the conducting of research with respect to the development and operation of such programs) to persons planning retirement; or

"(6) provide services to assist in meeting the particular needs of the physically and mentally impaired older persons including special transportation and escort services, homemaker, home health and shopping services, reader services, letter writing services, and other services designed to assist such individuals in leading a more independent life.

"(b) For the purpose of carrying out this section, there are authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1973, $105,000,000 for the fiscal year ending June 30, 1974, and $140,000,000 for the fiscal year ending June 30, 1975."

TITLE IV—TRAINING AND RESEARCH

SEC. 104. The Older Americans Act of 1965 is amended by striking out titles IV and V and by inserting immediately after title III the following new title:

"TITLE IV—TRAINING AND RESEARCH

"PART A—TRAINING

"STATEMENT OF PURPOSE

"SEC. 401. The purpose of this part is to improve the quality of service and to help meet critical shortages of adequately trained personnel for programs in the field of aging by (1) developing information on the actual needs for personnel to work in the field of aging, both present and long range; (2) providing a broad range of quality training and retraining opportunities, responsive to changing needs of programs in the field of aging; (3) attracting a greater number of qualified persons into the field of aging; and (4) helping to make personnel training programs more responsive to the need for trained personnel in the field of aging.

"APPRAISING PERSONNEL NEEDS IN THE FIELD OF AGING

"SEC. 402. (a) The Commissioner shall from time to time appraise the Nation's existing and future personnel needs in the field of aging, at all levels and in all types of programs, and the adequacy of the Nation's efforts to meet these needs. In developing information relating to personnel needs in the field of aging, the Commissioner shall consult with, and make maximum utilization of statistical and other related information of the Department of Labor, the Veterans' Administration, the Office of Education, Federal Council on the Aging the National Foundation on the Arts and Humanities, State educational agencies, other State and local public agencies and offices dealing with problems of the aging, State employment security agencies, and other appropriate public and private agencies.

"(b) The Commissioner shall prepare and publish annually as a part of the annual

report provided in section 208 a report on the professions dealing with the problems of the aging, in which he shall present in detail his view on the state of such professions and the trends which he discerns with respect to the future complexion of programs for the aging throughout the Nation and the funds and the needs for well-educated personnel to staff such programs. The report shall indicate the Commissioner's plans concerning the allocation of Federal assistance under this title in relation to the plans and programs of other Federal agencies.

"ATTRACTING QUALIFIED PERSONS TO THE FIELD OF AGING

"SEC. 403. The Commissioner may make grants to State agencies referred to in section 304, State or local educational agencies, institutions of higher education, or other public or nonprofit private agencies, organizations, or institutions, and he may enter into contracts with any agency, institution, or organization for the purpose of—

"(1) publicizing available opportunities for careers in the field of aging;

"(2) encouraging qualified persons to enter or reenter the field of aging;

"(3) encouraging artists, craftsmen, artisans, scientists, and persons from other professions and vocations and homemakers, to undertake assignments on a part-time basis or for temporary periods in the field of aging; or

"(4) preparing and disseminating materials, including audiovisual materials and printed materials, for use in recruitment and training of persons employed or preparing for employment in carrying out programs related to the purposes of this Act.

"TRAINING PROGRAMS FOR PERSONNEL IN THE FIELD OF AGING

"SEC. 404. (a) The Commissioner may make grants to any public or nonprofit private agency, organization, or institution or with State agencies referred to in section 304, or contracts with any agency, organization, or institution, to assist them in training persons who are employed or preparing for employment in fields related to the purposes of this Act—

"(1) to assist in covering the cost of courses of training or study (including short-term or regular session institutes and other inservice and preservice training programs),

"(2) for establishing and maintaining fellowships to train persons to be supervisors or trainers of persons employed or preparing for employment in fields related to the purposes of this Act,

"(3) for seminars, conferences, symposiums, and workshops in the field of aging, including the conduct of conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this Act,

"(4) for the improvement of programs for preparing personnel for careers in the field of aging, including design, development, and evaluation of exemplary training programs, introduction of high quality and more effective curricula and curricula materials, and

"(5) the provision of increased opportunities for practical experience.

"(b) The Commissioner may include in the terms of any contract or grant under this part provisions authorizing the payment, to persons participating in training programs supported under this part, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he determines to be consistent with prevailing practices under comparable federally supported programs. Where the Commissioner provides for the use of funds under this section for fellowships, he shall (in addition to stipends for the recipients) pay to colleges or universities in which the fellowship is being pursued such amounts as the Commissioner shall determine to be consistent with prevailing practices under comparable federally supported programs.

"PART B—RESEARCH AND DEVELOPMENT PROJECTS

"DESCRIPTION OF ACTIVITIES

"SEC. 411. The Commissioner may make grants to any public or nonprofit private agency, organization, or institution and contracts with any agency, organization, or institution or with any individual for the purpose of—

"(1) studying current patterns and conditions of living of older persons and identifying factors which are beneficial or detrimental to the wholesome and meaningful living of such persons;

"(2) developing or demonstrating new approaches, techniques, and methods (including the use of multipurpose centers) which hold promise of substantial contribution toward wholesome and meaningful living for older persons;

"(3) developing or demonstrating approaches, methods, and techniques for achieving or improving coordination of community services for older persons;

"(4) evaluating these approaches, techniques, and methods, as well as others which may assist older persons to enjoy wholesome and meaningful lives and to continue to contribute to the strength and welfare of our Nation;

"(5) collecting and disseminating, through publications and other appropriate means, information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this part; or

"(6) conducting conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this part.

"SPECIAL STUDY AND DEMONSTRATION PROJECTS ON THE TRANSPORTATION PROBLEMS OF OLDER AMERICANS

"SEC. 412. (a) The Commissioner shall, after consultation with the Secretary of Transportation and the Secretary of Housing and Urban Development, conduct a comprehensive study and survey of the transportation problems of older Americans with emphasis upon solutions that are practicable and can be implemented in a timely fashion. In conducting the study and survey, the Commissioner shall consider—

"(1) the use of all community transportation facilities, particularly public transportation systems, the possible use of school buses, and excess Department of Defense vehicles; and

"(2) the need for revised and improved procedures for obtaining motor vehicle insurance by older Americans to be implemented for use in a coordinated transportation system.

"(b) In connection with the study required by subsection (a), the Commissioner, in coordination with the Secretary of Transportation and the Secretary of Housing and Urban Development, shall conduct research and demonstration projects, either directly or by grants or contracts with public or private nonprofit agencies and organizations, in order to—

"(1) demonstrate possible solutions of economic and service aspect of furnishing adequate transportation to older persons in rural and urban areas including transportation services furnished by social service agencies;

"(2) demonstrate improvement of transportation services available to older persons with emphasis on (A) establishing special transportation subsystems for older persons or similar groups with similar mobility restrictions, (B) providing portal-to-portal service and demand actuated services, (C) making payments directly to older persons to enable them to obtain reasonable and necessary transportation services;

"(3) demonstrate improved coordination between transportation systems and social service delivery systems; and

"(4) demonstrate innovative solutions for other special transportation problems confronting older Americans.

"(c) At least half of the projects authorized under subsection (b) of this section shall be conducted in States that are predominantly rural in character.

"(d) Not later than June 30, 1975, the Commissioner shall prepare and transmit to the Secretary, to the President, and to the Congress, a report on his findings and recommendations, including a plan for implementation of improved transportation services for older Americans and recommendations for additional legislation, administrative and other measures to provide solutions to the transportation problems of older Americans not later than June 30, 1975, as he deems advisable.

"(e) In carrying out the study and survey, and the demonstration and research projects under this section, the Commissioner is authorized to—

"(1) procure temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, and

"(2) secure directly from any executive department, bureau, agency, board, commission, office, independent establishment or instrumentality information, suggestions, estimates, and statistics for the purpose of this section; and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commissioner upon request made by him.

"(f) There are authorized to be appropriated for the purposes of this section $7,500,000 for the fiscal year ending June 30, 1973; $15,000,000 for fiscal year ending June 30, 1974; and $20,000,000 for fiscal year ending June 30, 1975.

"PART C—MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

"SEC. 421. The Commissioner may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology. A grant may be made under this section only if the application therefor—

"(1) provides satisfactory assurance that the applicant will expend the full amount of the grant to establish or support a multidisciplinary center of gerontology which shall—

"(A) recruit and train personnel at the professional and subprofessional levels.

"(B) conduct basic and applied research on work, leisure, and education of older people, living arrangements of older people, social services for older people, the economics of aging, and other related areas.

"(C) provide consultation to public and voluntary organizations with respect to the needs of older people and in planning and developing services for them,

"(D) serve as a repository of information and knowledge with respect to the areas for which it conducts basic and applied research,

"(E) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges or universities,

"(F) help to develop training programs on aging in schools of social work, public health, health care administration, education, and in other such schools at colleges and universities, and

"(G) create opportunities for innovative, multidisciplinary efforts in teaching, research, and demonstration projects with respect to aging;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the applicant under this section; and

"(3) provide for making such reports, in such form and comtaining such information, as the Commissioner may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"PART D—AUTHORIZATION OF APPROPRIATIONS

"AUTHORIZATION

"SEC. 431. (a) There are authorized to be appropriated for the purposes of carrying out part A of this title $15,000,000 for the fiscal year ending June 30, 1973, $20,000,000 for the fiscal year ending June 30, 1974, and $25,000,000 for the fiscal year ending June 30, 1975.

"(b) There are authorized to be appropriated for the purpose of carrying out the provisions of part B and part C of this title (except section 412), $20,000,000 for the fiscal year ending June 30, 1973, $30,000,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal year ending June 30, 1975.

"PAYMENTS OF GRANTS

"SEC. 432. (a) To the extent he deems it appropriate, the Commissioner shall require the recipient of any grant or contract under this title to contribute money, facilities, or service for carrying out the project for which such grant or contract was made.

"(b) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

"(c) The Commissioner shall make no grant or contract under this title in any State which has established or designated a State agency for purposes of title III of this Act unless the Commissioner has consulted with such State agency regarding such grant or contract."

TITLE V—MULTIPURPOSE SENIOR CENTERS

SEC. 501. The Older Americans Act of 1965 is further amended by inserting immediately after title IV the following new title:

"TITLE V—MULTIPURPOSE SENIOR CENTERS

"PART A—MORTGAGE ASSISTANCE FOR MULTIPURPOSE SENIOR CENTERS

"MORTGAGE INSURANCE FOR MULTIPURPOSE SENIOR CENTERS

"SEC. 501. (a) It is the purpose of this section to assist and encourage the provision of urgently needed facilities for programs for the elderly.

"(b) For the purpose of this part the terms 'mortgage', 'mortgagor', 'mortgagee', 'maturity date', and 'State' shall have the meanings respectively set forth in section 207 of the National Housing Act.

"(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

"(d) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new multipurpose senior center, including equipment to be used in its operation, subject to the following conditions:

"(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for the elderly. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Multipurpose Senior Center Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

"(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the multipurpose senior center, when the proposed improvements are completed and the equipment is installed.

"(3) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market.

"(4) The Secretary shall not insure any mortgage under this section unless he has determined that the center to be covered by the mortgage will be in compliance with minimum standards to be prescribed by the Secretary.

"(5) In the plans for such Multipurpose Senior Center, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"(e) The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Multipurpose Senior Center Insurance Fund (established by subsection (h)) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the amount of the principal obligation of the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraised and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

"(f) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(g)(1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

"(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Multipurpose Senior Center Insurance Fund, and all references in such provisions to 'Secretary' shall be deemed to refer to the Secretary of Health, Education, and Welfare.

"(h)(1) There is hereby created a Multipurpose Senior Center Insurance Fund which shall be used by the Secretary as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Multipurpose Senior Center Insurance Fund.

"(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Multipurpose Senior Center Insurance Fund.

"(3) Moneys in the Multipurpose Senior Center Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Multipurpose Senior Center Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

"(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Multipurpose Senior Center Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

"(5) There are authorized to be appropriated to provide initial capital for the Multipurpose Senior Center Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

"ANNUAL INTEREST GRANTS

"SEC. 502. (a) To assist nonprofit private agencies to reduce the cost of borrowing from other sources for the construction of facilities, the Secretary may make annual interest grants to such agencies.

"(b) Annual interest grants under this section with respect to any facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the in-

stitution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were 3 per centum per annum: *Provided*, That the amount on which such grant is based shall be approved by the Secretary.

"(c) (1) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary for the payment of annual interest grants in accordance with this section.

"(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual interest grants in any year pursuant to contracts entered into under this section shall not exceed $1,000,000 which amount shall be increased by $2,000,000 on July 1, 1975, and by $3,000,000 on July 1, 1976.

"(d) Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.

"PART B—INITIAL STAFFING OF MULTIPURPOSE SENIOR CENTERS

"PROFESSIONAL STAFFING GRANT PROGRAM AUTHORIZED

"SEC. 511. (a) For the purpose of assisting in the establishment and initial operation of multipurpose senior centers the Commissioner may, in accordance with the provisions of this part, make grants to meet, for the temporary periods specified in this part, all or part of the costs of compensation of professional and technical personnel for the initial operation of new multipurpose senior centers and for the delivery of social services established therein.

"(b) Grants for such costs of any center under this title may be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day. Such grants with respect to any center may not exceed 75 per centum of such costs for the first year of the project. 66⅔ per centum of such costs for the second year of the project, and 50 per centum of such costs for the third year of the project.

"(c) In making such grants, the Secretary shall take into account the relative needs of the several States for community centers for senior citizens, their relative financial needs, and their population of persons over sixty years of age.

"(d) For the purpose of this part, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"DEFINITIONS

"SEC. 512. For purposes of this title—

"(1) the term 'multipurpose senior center' means a community facility for the organization and provision of a broad spectrum of services (including provision of health, social, and educational services and provision of facilities for recreational activities) for older persons.

"(2) the term 'cost of construction' includes the cost of architects' fees and acquisition of land in connection with construction, but does not include the cost of offsite improvements."

TITLE VI—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

SEC. 601. Section 601 of the Older Americans Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, no compensation provided to individual volunteers under this part shall be considered income for any purpose whatsoever."

SEC. 602. Section 603 of the Older Americans Act of 1965 is amended by inserting immediately before the period at the end thereof the following: "and $20,000,000 for the fiscal year ending June 30, 1973, $30,000,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal year ending June 30, 1975".

SEC. 603. (a) The heading of part B of title VI of the Older Americans Act of 1965 is amended to read as follows:

"FOSTER GRANDPARENT PROGRAM AND OLDER AMERICANS COMMUNITY SERVICE PROGRAMS"

(b) Section 611 of such Act is amended to read as follows:

"SEC. 611. (a) The Commissioner is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects designed to provide opportunities for low-income persons aged sixty or over to render supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services as 'Foster Grandparents' to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

"(b) The Commissioner is also authorized to make grants or contracts to carry out the purposes described in subsection (a) in the case of persons (other than children) having exceptional needs, including services as 'senior health aides' to work with persons receiving home health care and nursing care, and as 'senior companions' to persons having developmental disabilities.

"(c) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Commissioner may determine.

"(d) Notwithstanding any other provision of law, no compensation provided to individual volunteers under this part shall be considered income for any purpose whatsoever."

(c) The first sentence of section 613 of such Act is amended to read as follows:

"In administering this part, the Commissioner shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels."

SEC. 604. Section 614 of the Older Americans Act is amended to read as follows:

"SEC. 614. (a) There are authorized to be appropriated for grants or contracts under subsection (a) of section 611, $35,000,000 for the fiscal year ending June 30, 1973, $45,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975.

"(b) There are authorized to be appropriated for grants or contracts under subsection (b) of section 611, $6,000,000 for the fiscal year ending June 30, 1973, $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975."

SEC. 605. The authorities conferred upon the Commissioner of the Administration on Aging by the amendments made in this title shall be carried out pursuant to delegations of authority, reorganization plans, and transfers made effective prior to the date of enactment of this Act with respect to authorities conferred upon the Secretary of the Department of Health, Education, and Welfare under title VI of the Older Americans Act of 1965, as amended.

TITLE VII—NUTRITION PROGRAM

AVAILABILITY OF SURPLUS COMMODITIES

SEC. 701. Section 707 of the Older Americans Act of 1965 is amended to read as follows:

"AVAILABILITY OF SURPLUS COMMODITIES

"SEC. 707. (a) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) may be donated to a recipient of a grant or contract to be used for providing nutritional services in accordance with the provisions of this title.

"(b) The Commodity Credit Corporation may dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutritional services in accordance with the provisions of this title.

"(c) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1) may be used to meet the requirements of programs providing nutritional services in accordance with the provisions of this title."

SEC. 702. Section 705(a) of the Older Americans Act of 1965 is amended by adding at the end thereof the following new paragraph:

"(5) provide that, when mutually agreed upon by recipients of grants and contracts and area planning and service areas agencies nutrition projects assisted under this title shall be made a part of the comprehensive and coordinated systems established under title III of this Act."

STATE PLANNING

SEC. 703. Section 705(a)(2)(B) of the Older Americans Act of 1965 is amended by inserting "for the fiscal year ending June 30, 1973," following "administrative cost,"; by spelling out "any fiscal year" in this section in lieu thereof "each fiscal"; and by adding at the end of the first sentence thereof the following sentence: "For the fiscal years ending after June 30, 1973, funds allotted to a State for State planning and administration pursuant to section 306 of this Act may be used for the administration of the State plan submitted pursuant to this section except that wherever the Governor of the State designates an agency other than the agency designated under section 304(a)(1) of this Act then the Secretary shall determine that portion of a State's allotment under section 306 which shall be available to the agency designated under section 705(a)(1) for planning and administration."

CONFORMING AMENDMENT

SEC. 704. (a) The first sentence of section 705(a) of the Older Americans Act of 1965 is amended by striking out "303" the first time it appears in such sentence and inserting in lieu thereof "304" and in striking out "303" the second time it appears in such sentence and inserting in lieu thereof "305".

(b) Section 705(a)(1) of the Older Americans Act of 1965 is amended by striking out "303" and inserting in lieu thereof "304".

(c) Title VII of the Older Americans Act of 1965 is amended by striking out "Secretary" wherever in such title the term refers to the Secretary of Health, Education, and Welfare, and inserting in lieu thereof "Commissioner".

TITLE VIII—AMENDMENTS TO OTHER ACTS

AMENDMENT TO LIBRARY SERVICES AND CONSTRUCTION ACT

SEC. 801. (a) The Library Services and Construction Act (20 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IV—OLDER READERS SERVICES

"GRANTS TO STATES FOR OLDER READERS SERVICES

"SEC. 401. The Commissioner shall carry out a program of making grants to States which have an approved basic State plan under section 6 and have submitted a long-range program and an annual program under section 403 for library services for older persons.

"USES OF FEDERAL FUNDS

"SEC. 402. (a) Funds appropriated pursuant to paragraph (4) of section 4(a) shall be available for grants to States from allotments under section 5(a) for the purpose of carrying out the Federal share of the cost of carrying out State plans submitted and approved under section 403. Such grants shall be used for (1) the training of librarians to work with the elderly; (2) the conduct of special library programs for the elderly; (3) the purchase of special library materials for use by the elderly; (4) the payment of salaries for elderly persons who wish to work in libraries as assistants on programs for the elderly; (5) the provision of in-home visits by librarians and other library personnel to the elderly; (6) the establishment of outreach programs to notify the elderly of library services available to them; and (7) the furnishing of transportation to enable the elderly to have access to library services.

"(b) For the purposes of this title, the Federal share shall be 100 per centum of the cost of carrying out the State plan.

"STATE ANNUAL PROGRAM FOR LIBRARY SERVICES FOR THE ELDERLY

"SEC. 403. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 6, submit for that fiscal year an annual program for library services for older persons. Such program shall be submitted at such time, in such form, and contain such information as the Commissioner may require by regulation and shall—

"(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (4) of section 4(a) will be used, consistent with its long-range program for the purposes set forth in section 402, and

"(2) include an extension of the long-range program taking into consideration the results of evaluations.

"COORDINATION WITH PROGRAMS FOR OLDER AMERICANS

"SEC. 404. In carrying out the program authorized by this title, the Commissioner shall consult with the Commissioner of the Administration on Aging and the Director of ACTION for the purpose of coordinating where practicable, the programs assisted under this title with the programs assisted under the Older Americans Act of 1965."

(b) Section 4(a) of the Library Services and Construction Act is amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of making grants to States to enable them to carry out public library service programs for older persons authorized by title IV, there are authorized to be appropriated $11,700,000 for the fiscal year ending June 30, 1973, $12,300,000 for the fiscal year ending June 30, 1974, $12,900,000 for the fiscal year ending June 30, 1975, and $13,700,000 for the fiscal year ending June 30, 1976."

(c)(1) Section 5(a)(1) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(2) Section 5(a)(2) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(3) Section 5(a) of such Act is amended by striking out the word "and" at the end of such paragraph (B) thereof, by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and the word "and", and by inserting after subparagraph (C) thereof the following:

"(D) with respect to appropriations for the purpose of title IV, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands"

(4) The last sentence of section 5(a)(3) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(5) Section 5(b) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(c) Section 6(a) of such Act is amended by striking out "and III" and inserting in lieu thereof "III and IV".

(d)(1) Section 7(a) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(2) Section 7(b)(1) of such Act is amended by inserting "and title IV" after "title III".

(e) The amendments made by subsections (a), (b), and (c) of this section shall be effective after June 30, 1972.

AMENDMENT TO NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 802. (a) Section 5(a)(2) of the National Commission on Libraries and Information Science Act is amended by striking out "and" after "areas" and inserting a comma in lieu thereof, and by inserting after "deprived persons," the following: "and of elderly persons,".

(b) The second sentence of section 6(a) (20 U.S.C. 1505(a)) of such Act is amended by inserting before the period at the end thereof the following: ", and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly".

AMENDMENT TO HIGHER EDUCATION ACT OF 1965

SEC. 803. Title I of the Higher Education Act of 1965 is amended by redesignating sections 110, 111, and 112 (and cross references thereto) as 111, 112, and 113, respectively, and by inserting after section 109 the following new section:

"SPECIAL PROGRAMS AND PROJECTS RELATING TO PROBLEMS OF THE ELDERLY

"SEC. 110. (a) The Commissioner is authorized to make grants to institutions of higher education (and combinations thereof) to assist such institutions in planning, developing, and carrying out, consistent with the purpose of this title, programs specifically designed to apply the resources of higher education to the problems of the elderly, particularly with regard to transportation and housing problems of elderly persons living in rural and isolated areas.

"(b) For purposes of making grants under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to July 1, 1977.

"(c) In carrying out the program authorized by this section, the Commissioner shall consult with the Commissioner of the Administration on Aging for the purpose of coordinating, where practicable, the programs assisted under this section with the programs assisted under the Older Americans Act of 1965."

AMENDMENT TO ADULT EDUCATION ACT

SEC. 804. (a) The Adult Education Act (20 U.S.C. 1201 et seq.) is amended by redesignating sections 310, 311, and 312 (and cross references thereto) as sections 311, 312, and 313, respectively, and by inserting after section 309 the following new section:

"SPECIAL PROJECTS FOR THE ELDERLY

"SEC. 310. (a) The Commissioner is authorized to make grants to State and local educational agencies or other public or private nonprofit agencies for programs to further the purpose of this Act by providing educational programs for elderly persons whose ability to speak and read the English language is limited and who lives in an area with a culture different than their own. Such programs shall be designed to equip such elderly persons to deal successfully with the practical problems in their everyday life, including the making of purchases, meeting their transportation and housing needs, and complying with governmental requirements such as those for obtaining citizenship, public assistance and social security benefits, and housing.

"(b) For the purpose of making grants under this section there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to July 1, 1975.

"(c) In carrying out the program authorized by this section, the Commissioner shall consult with the Commissioner of the Administration on Aging for the purpose of coordinating, where practicable, the programs assisted under this section with the programs assisted under the Older Americans Act of 1965."

(b) Section 313(a) of such Act, as redesignated, is amended by inserting before the period at the end thereof the following: "(other than section 310)".

ADDITIONAL AUTHORIZATION FOR SENIOR OPPORTUNITIES AND SERVICES

SEC. 805. In addition to the amounts authorized to be appropriated and allocated pursuant to the Economic Opportunity Amendments of 1972, there is further authorized to be appropriated $7,000,000 annually for the fiscal year ending June 30, 1973, and the succeeding fiscal year, to be used for the Senior Opportunities and Services program described in section 222(a)(7) of the Economic Opportunity Act of 1964.

TITLE IX—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

SHORT TITLE

SEC. 901. This title may be cited as the "Older American Community Service Employment Act".

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 902. (a) In order to foster and promote useful part-time work opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter referred to as the "Secretary") is authorized to establish an older American community service employment program (hereinafter referred to as the "program").

(b) In order to carry out the provisions of this title, the Secretary is authorized—

(1) to enter into agreements with public or private nonprofit agencies or organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or Indian tribes on Federal or State reservations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement it. No payments shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the full-

est extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations exempt from taxation under the provisions of section 501 (c) (3) of the Internal Revenue Code of 1954 (other than political parties), except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor;

(F) 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;

(G) will utilize methods of recruitment and selection (including, but not limited to, listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(H) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(I) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in public service jobs assisted under this title shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(J) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

(K) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this title in accordance with regulations promulgated by the Secretary; and

(L) will assure that to the extent feasible such projects will serve the needs of minority, Indian, and limited English speaking eligible individuals in proportion to their numbers in the State;

(2) to make, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

(c) (1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project or (B) a project located in an economically depressed area as determined in consultation with the Secretary of Commerce and the Director of the Office of Economic Opportunity.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

ADMINISTRATION

SEC. 903. (a) In order to effectively carry out the purposes of this title, the Secretary is authorized to consult with agencies of States and their political subdivisions with regard to—

(1) the localities in which community service projects of the type authorized by this title are most needed;

(2) consideration of the employment situation and the types of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b) (1) The Secretary is authorized and directed to require agencies and organizations administering community service projects and other activities assisted under this title to coordinate their projects and activities with agencies and organizations conducting related manpower and unemployment programs receiving assistance under this Act and under other authorities such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962 and the Emergency Employment Act of 1971. In carrying out the provisions of this paragraph, the Secretary is authorized to make necessary arrangements to include projects and activities assisted under this title within a common agreement and a common application with projects assisted under this Act and other provisions of law such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962, the Emergency Employment Act of 1971.

(2) The Secretary is authorized to make whatever arrangements that are necessary to carry out the programs assisted under this title as part of any general manpower legislation hereafter enacted, except that appropriations for programs assisted under this title may not be expended for programs assisted under that title.

(c) In carrying out the provisions of this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies, and instrumentalities in the use of services, equipment, and facilities.

(d) The Secretary shall establish criteria designed to assure equitable participation in the administration of community service projects by agencies and organizations eligible for payment under section 902(b).

(e) Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(f) The Secretary shall not delegate his functions and duties under this title to any other department or agency of Government.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 904. (a) Eligible individuals who are employed in any project funded under this title 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.

(b) No contract shall be entered into under this title with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self insurance, as allowed by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment. The Secretary must establish standards for severance benefits, in lieu of unemployment insurance coverage, for eligible individuals who have participated in qualifying programs and who have become unemployed.

INTERAGENCY COOPERATION

SEC. 905. The Secretary shall consult and cooperate wtih the Office of Economic Opportunity, the Administration on Aging, the Department of Health, Education, and Welfare, 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 title 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 title and in promoting the identification and interests of individuals eligible for employment in projects funded under this title.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 906. (a) (1) From the sums appropriated for any fiscal year under section 908 there shall be initially allotted for projects within each State an amount which bears the same ratio to such sum as the population, aged fifty-five or over in such State bears to the population aged fifty-five or over in all States, except that (A) no State shall be allotted less than 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) The number of persons aged fifty-five or over in any State and for all States shall be determined by the Secretary on the basis of the most satisfactory data available to him.

(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for that year, but will such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration the proportion which eligible persons in each such area bears to such total number of such persons, respectively, in that State.

DEFINITIONS

SEC. 907. As used in this title—

(a) "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(b) "eligible individual" means an individual who is fifty-five years old or older, who has a low income, and who has or would have

difficulty in securing employment, except that pursuant to regulations prescribed by the Secretary any such individual who is sixty years old or older shall have priority for the work opportunities provided for under this Act;

(c) "community service" means social, health, welfare, educational, library, recreational, and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services which are essential and necessary to the community as the Secretary, by regulation, may prescribe.

AUTHORIZATION OF APPROPRIATIONS

SEC. 908. There are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for fiscal year ending June 30, 1974, to carry out the provisions of this title.

TITLE X—MIDDLE-AGED AND OLDER WORKERS TRAINING

SHORT TITLE

SEC. 1001. This title may be cited as the "Middle-Aged and Older Workers Training Act".

DECLARATION OF FINDINGS

SEC. 1002. The Congress hereby finds and declares that—

"(1) inflation has forced middle-aged and older persons to bear growing economic burdens, particularly if they are living on limited, fixed incomes;

(2) millions of middle-aged and older Americans wish to continue in or obtain employment in order to provide adequately for themselves and to contribute to the Nation as productive citizens;

(3) millions of middle-aged and older Americans are frustrated in these goals and find it increasingly difficult to retain or obtain employment of a remunerative and meaningful nature, as a result of their inability to keep pace with a dynamic economy and changing technology;

(4) without additional legislation, the Age Discrimination in Employment Act of 1967 cannot reasonably be expected to deal adequately with age discrimination in employment which acts to deny employment opportunities for middle-aged and older workers;

(5) as a result of the lack of full opportunity and adequate training and supportive services more than a million men and women between the ages of fifty-five and sixty-four have given up the active search for work and hundreds of thousands of men and women between the ages of sixty-two and sixty-four have been forced to retire with inadequate benefits, resulting in individual frustration, impaired morale and loss of sense of worth and dignity;

(6) in addition to individual loss, the Nation as a whole loses the benefits which may be contributed by middle-aged and older persons and incurs needless costs in unemployment compensation and public assistance which can be reckoned in billions of dollars; and

(7) providing middle-aged and older workers training and educational opportunities and supportive services leading to remunerative and meaningful employment opportunities will increase their incomes and benefit their physical and mental well-being, as well as strengthen the Nation's economy.

STATEMENT OF PURPOSE

SEC. 1003. It is the purpose of this title to establish and assist training programs and relative supportive services which will provide middle-aged and older workers a full opportunity for remunerative and meaningful employment; to assist further in eliminating discriminatory practices which deny work to qualified persons solely on account of age; to improve and extend existing programs designed to facilitate training and the matching of skills and jobs; to assist middle-aged and older workers, and employers, labor unions, and educational institutions to prepare for and adjust to anticipated changes in technology in jobs, in educational requirements, and in personnel practices and to otherwise stimulate innovative approaches to make employment opportunities more accessible to middle-aged and older persons.

AUTHORIZATIONS

SEC. 1004. For the fiscal year ending June 30, 1973, the Secretary is authorized to carry out the provisions of this title from funds otherwise available for similar programs. There is authorized to be appropriated for the purpose of carrying out the provisions of this title, $100,000,000 for the fiscal year ending June 30, 1974.

PART A—MIDCAREER DEVELOPMENT SERVICE PROGRAM

PROGRAM ESTABLISHED

SEC. 1011. There is hereby established a comprehensive midcareer development service program, to be administered by the Manpower Administration in the Department of Labor, to assist middle-aged and older workers to retain and obtain remunerative employment by providing manpower training, counseling, and special supportive services to such workers.

TRAINING PROGRAMS

SEC. 1012. (a) The Secretary, through the Manpower Administration, is authorized to make loans and grants to public and private non-profit agencies, institutions, and organizations and to individuals for manpower training, including on-the-job, institutional, residential, and other training, designed to upgrade the work skills and capabilities of middle-aged and older persons.

(b) Any grant or loan made pursuant to this section may be used to pay all or part of the cost of training under any such program plus such stipends (including allowances for subsistence or other expenses) for such persons and their dependents as he may determine to be consistent with prevailing practices under comparable Federal programs.

(c) A grant or loan under this section shall be made on such terms and conditions as the Secretary shall prescribe and may be made only upon application to the Secretary at such time or times and containing such information as he deems necessary. The Secretary shall not approve an application unless it sets forth a program for training which meets criteria established by him, including training costs and tuition schedules.

(d) The Secretary shall pay to each applicant who has an application approved by him part or all of the cost of the program set forth in such application.

(e) Individuals receiving payments under the provisions of this section while undergoing training shall continue to receive such payments only during such period as the Secretary finds that they are maintaining satisfactory proficiency in such training program.

(f) The Secretary is authorized to enter into agreements to provide loan guarantees to lending institutions on such terms and conditions as the Secretary shall prescribe in order to permit such institutions to make loans to middle-aged and older persons for training which qualifies under this section.

TRAINING PERSONS TO TRAIN AND RETRAIN MIDDLE-AGED AND OLDER WORKERS

SEC. 1013. The Secretary is authorized to develop and carry out a program under which an adequate number of persons are trained to understand the manpower training and educational needs of middle-aged and older persons and to become qualified to train and retrain middle-aged and older workers in skills needed in the economy in the community in which such workers reside. Such programs shall emphasize developing innovative techniques for training middle-aged and older persons.

SPECIAL SERVICES FOR MASS LAYOFFS

SEC. 1014. The Secretary is authorized to recruit and train personnel within the Department of Labor to be made available to localities in which substantial numbers of middle-aged and older persons are unemployed as a result of the closing of a plant or factory or a permanent large-scale reduction in the work force in such locality. In carrying out the provisions of this section, the Secretary is authorized to provide such persons with recruitment, placement, and counseling services.

SPECIALIZED SERVICES

SEC. 1015. (a) The Secretary shall establish and carry out specialized services for middle-aged and older workers who desire to improve their employability, to receive manpower training to improve their capabilities at their present employment, or to obtain counseling in planning to maximize earning opportunities for the remainder of their working lives.

(b) The Secretary is authorized to recruit and train manpower specialists, including older and retired employment counselors and personnel directors to serve in programs authorized under this section.

EMPLOYMENT SERVICES FOR PART-TIME EMPLOYMENT

SEC. 1016. The Secretary may, where appropriate, make special provisions through the United States employment service, or with the advice and assistance of the employment service, by means of grants to or contracts with nonprofit volunteer agencies to assist such agencies in securing part-time or temporary employment for additional members of middle-aged and older persons who wish such employment.

PART B—SPECIAL REPORTS AND STUDIES

RESEARCH AND INFORMATION PROGRAMS

SEC. 1021. (a) The Secretary is authorized to enter into grants, contracts, and other arrangements with public and private agencies and institutions to conduct such research and demonstration projects as he determines will contribute to carrying out the purposes of this title.

(b) In carrying out the purposes of this title the Secretary is authorized to publish and disseminate materials and other information relating to training and job opportunities for middle-aged and older individuals and to conduct such special informational and educational programs as he determines appropriate.

MANPOWER STUDIES

SEC. 1022. (a) The Secretary is authorized and directed to undertake, either directly or by way of grant or contract, a thorough study of manpower programs authorized by provisions of Federal law other than this title, and other federally assisted training programs to determine whether such programs are responsive to the needs of the middle-aged and older persons. The Secretary shall report the findings and recommendations of this study, and his own recommendations with respect to additional legislation, to the President for transmittal to the Congress not later than July 1, 1973.

(b) In conducting this study the Secretary shall not employ or contract with any individual, institution, organization, or agency providing advice or technical assistance for any program described in subsection (a) of this section.

EXTENDED UNEMPLOYMENT COMPENSATION

SEC. 1023. The Secretary shall study the feasibility of establishing a program of extended unemployment compensation benefits for unemployed older workers who have exhausted their unemployment compensation. On or before July 1, 1973, the Secretary shall report to the Congress and the Presi-

dent his findings and recommendations with respect to such a program of allowances.

COMPENSATION AND DISABILITY INSURANCE

SEC. 1024. The Secretary shall prepare and submit a report to the Congress not later than July 1, 1973, on means of eliminating the lack of coverage and other inadequacies in workmen's compensation and disability insurance programs, health insurance, and pension plans, particularly as they affect adversely the employment of middle-aged and older workers.

FEDERAL EMPLOYMENT OPPORTUNITIES STUDY

SEC. 1025. (a) The Comptroller General of the United States is authorized and directed to undertake a study of part-time employment in the executive branch of the Government of the United States and to make a report of his findings, together with any recommendations he considers appropriate or desirable, to the Congress on or before July 1, 1973. Such study shall include a determination of—

(1) the extent to which part-time employment exists in the executive branch;

(2) the limitations, if any, that are imposed by Federal statutes, regulations, or administrative policies or practices on such part-time employment, and the extent to which such limitations are justified; and

(3) the measures that may be taken to increase the number of part-time positions available in the executive branch which may be filled by older persons without resulting in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits).

(b) The Comptroller General is further authorized and directed to undertake a study of the feasibility of redesigning positions in the executive branch of the Government of the United States without impairing the effectiveness or efficiency of operations of any department agency, or independent establishment, with a view to increasing the number of positions which are available to older individuals at the subprofessional level. The Comptroller General shall make a report of his findings, together with any recommendations he considers appropriate or desirable, to the Congress on or before July 1, 1973. Such study shall include a determination of—

(1) the extent to which positions can be redesigned, resulting in an increase in the number of positions in the executive branch available to older individuals;

(2) the limitations, if any, imposed by Federal statutes, regulations, or administrative policies or practices on redesigning positions in the executive branch to increase the number of subprofessional positions available to older individuals and the extent to which such limitations are justified;

(3) the measures that may be taken to redesign positions so that the number of subprofessional positions available to older individuals may be increased; and

(4) the programs which would be needed to train older individuals to fill subprofessional positions created as a result of redesigning such position.

PART C—GENERAL PROVISIONS

DEFINITIONS

SEC. 1031. As used in this title—

(1) "middle-aged and older" means an individual who is forty-five years of age or older;

(2) "middle-aged" means an individual who is at least forty-five years of age but not older than fifty-four years of age;

(3) "older" means an individual who is at least fifty-five years of age;

(4) "Secretary" means the Secretary of Labor; and

(5) "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

ADMINISTRATION

SEC. 1032. (a) In order to carry out the purposes of this title the Secretary is authorized to—

(1) provide such rules and regulations as he deems necessary;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

(3) appoint such advisory committees composed of private citizens and public officials who, by reason of their experience or training, are knowledgeable in the area of job opportunities for middle-aged and older individuals, as he deems desirable to advise him with respect to his functions under this Act; and

(4) utilize, with their consent, the services, personnel, information, and facilities of other Federal and State agencies, with or without reimbursement therefor.

(b) Each member of a committee appointed pursuant to clause (3) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day on which he is engaged in the actual performance of his duties (including traveltime) as a member of the committee. All members 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.

(c) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipients of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(d) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants, agreements, or contracts entered into under this title.

PROGRAM DEVELOPMENT AND COORDINATION

SEC. 1033. (a) In addition to any other provisions for the administration of this title, the Secretary shall designate personnel to have responsibility for program leadership, development, and coordination. The Secretary shall provide for a central office for information on and special attention to the problems of middle-aged and older workers and the programs concerning such workers.

(b) No individual, institution, organization, or agency shall evaluate any program under this title if that individual, or any member of any such institution, organization, or agency, is associated with the program as a consultant, technical adviser, or in any other capacity.

(c)(1) The Secretary is authorized and directed to require agencies, institutions, and organizations administering training and other programs and activities assisted under this title to coordinate their activities with agencies and organizations conducting related manpower and employment programs receiving assistance under this Act and under other provisions of law, such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962, and the Emergency Employment Act of 1971. In carrying out the provisions of this paragraph, the Secretary is authorized to make necessary arrangements to include projects and activities assisted under this title within a common agreement and a common application with projects assisted under this Act and under other provisions of law, such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962, the Emergency Employment Act of 1971.

(2) The Secretary is authorized to make whatever arrangements that are necessary to carry out the programs assisted under this title as part of any general manpower legislation hereafter enacted, except that appropriations for programs assisted under this title may not be expended for programs assisted under such legislation.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 1034. (a) The amounts appropriated under the provisions of this title for any fiscal year shall be allocated by the Secretary in such manner that of such amounts—

(1) not less than 80 per centum shall be apportioned among the States in an equitable manner, taking into consideration the proportion which the total number of unemployed middle-aged and older persons in each such State bears to the total number of such persons in all States; and

(2) the remainder shall be available as the Secretary deems appropriate to carry out the purposes of this Act.

(b) The amount apportioned to each State under paragraph (1) of subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking the total number of unemployed middle-aged and older persons in each such area bears to the total number of such persons, respectively, in that State.

(c) As soon as practicable after funds are apportioned to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments required by subsections (a)(1) and (b) of this section.

TITLE-BY-TITLE SUMMARY OF OLDER AMERICANS COMPREHENSIVE SERVICES ACT OF 1973

TITLE I—DECLARATION OF OBJECTIVES

The objectives contained in the original Older Americans Act of 1965 would be expanded by placing the emphasis on the need to make comprehensive social service programs more available to older Americans and to insure their participation in the development of these programs. Additional emphasis would be made to provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to all our older citizens.

TITLE II—ADMINISTRATION ON AGING

This Title would elevate the Administration on Aging and would place it in the Office of the Secretary of Health, Education, and Welfare. The Administration on Aging would be given primary responsibility for carrying out the programs authorized under this Act. AoA would be headed by a Commissioner on Aging appointed by the President and confirmed by the Senate. In the performance of his functions, the Commissioner on Aging would be directly responsible to the Secretary of H.E.W., and not to or through any other officer of that Department. In addition, the Commissioner on Aging would not be allowed to delegate any of his functions to any other officer who is not directly responsible to him, unless he first submits a plan for such delegation to the Congress.

Primary among the functions of Administration on Aging would be to:

1. Develop plans, conduct and arrange for research in the field of aging; and

2. Assist in the establishment of and carry out programs designed to meet the needs of older persons for social services, including nutrition, hospitalization, pre-retirement

training, continued education, low-cost transportation and housing, and health services.

Also under Title II, the Commissioner on Aging would be authorized and directed to establish and operate a National Information and Resource Clearing House for the Aging. Some of its primary duties would be to collect, analyze, prepare, and disseminate information related to the needs and interests of older persons. In addition, it would encourage the establishment of State and local information centers and provide technical assistance to such centers.

Authorization by this section would be $750,000 for the fiscal year ending June 30, 1973; $1,000,000 for the fiscal year ending June 30, 1974; and $1,250,000 for the fiscal year ending June 30, 1975.

Finally, Title II contains a provision to establish a "Federal Council on Aging" which would be composed of 15 members appointed by the President and confirmed by the Senate. Members would be appointed so as to be representative of older Americans, national organizations with an interest in aging, business, labor and the general public.

Among the designated duties of the Council would be:

1. To advise and assist the President on matters relating to the special needs of older Americans;

2. To review and evaluate on a continuing basis, Federal policies regarding the aging;

3. To serve as a spokesman on behalf of older Americans my making recommendations to the President, to the Secretary, the Commissioner, and to the Congress with respect to Federal policies affecting the aging; and

4. To inform the public about the problems and needs of the aging, in consultation with the National Information and Resource Clearing House for the Aging.

One of the more specific tasks of the Council would be to undertake a study of the combined impact of all taxes on the elderly —including but not limited to income, property, sales, and social security taxes. Upon completion of this study, but no later than eighteen months after enactment of this Act, the President would submit to Congress, and to the Governor and legislatures of the States, the results thereof and such recommendations as he deems necessary.

Members of the Council would serve for a term of three years, and would be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS–18 in section 5332 of title 5, United States Code.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

The purpose of this title would be to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity to serve older persons.

Under Title III, the Administration on Aging would work with State aging offices to develop a state-wide plan for delivering social services to senior citizens. Each state, would have to designate a State agency as their sole State agency. This designated State agency, would then divide its state into distinct areas called "planning and service areas". In determining these planning and service areas" the designated State agency would have to consider:

1. The geographical distribution of individuals aged sixty and older in the state;

2. The incidence of the need for social services including the number of older persons with low incomes residing in such areas;

3. The distribution of resources available to provide such services;

4. The boundaries of existing areas within the State which were drawn for the planning or administration of social services programs; and

5. The location of units of general purpose local government within the State.

However, it would be mandatory that any area containing more than 15% of the State's total number of older citizens (sixty and over), or containing more than 50,000 older citizens (sixty and over), would have to be designated as a "planning and service area".

From among these designated "planning and service areas", the State Agency would select whichever "planning and service areas" it wished to give priority to, and for these it would develop an "area plan". Only those "planning and service areas" for which an "area plan" was developed would be entitled to 90/10 matching funds (90% federal/10% state) under Title III. Those "planning and service areas" not provided with an "area plan" by the State Agency would only receive 75/25 matching funds.

The State Agency would then also designate an "area agency" to head the development of an "area plan".

This "area agency" would be a public or nonprofit private agency and would be:

1. an established office on aging, or

2. any office or agency of a unit of general purpose local government, or

3. any office or agency designated by the elected officials, or a combination thereof, or

4. any public or nonprofit private agency which is under the supervision or direction of the designated State Agency.

Under Title III area planning and social service programs, there would be authorized to be appropriated $100 million for the fiscal year ending June 30, 1973; $200 million for the fiscal year ending June 30, 1974; and $300 million for the fiscal year ending June 30, 1975.

The sums appropriated would be allotted as follows:

(a) Each State would be allotted an amount equal to 1 percent of such sum.

(b) From the remainder, each State would be allotted an amount, based upon that ratio of its population age 65 or over, to that total population in all States.

(c) Guam, American Samoa, the Virgin Islands, and the Trust Territories would be allotted an amount equal to one-half of 1 percent.

(d) In fiscal year 1975 the formula would be based on population aged 65 and over in each State, as it relates to that population in all States, except that no State would be allotted less than 1 percent, or one-half percent in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territories.

(e) In addition, no State would be allotted an amount less than it received in fiscal year 1973.

From each state's allotment:

(a) not more than 15% of that total could go toward paying up to 75% of the *administration expenses* for "planning and service areas", regardless of whether or not it was designated a priority area with an "area plan".

(b) not more than 20% of the total state allotment could go toward paying up to 75% of the *cost of social services* to those "planning and service areas" which were not designated priority areas.

(c) the remaining 65% or more of the total state allotment would have to be made available for the *cost of* social services to those "planning and service areas" which were designated as priority areas.

(1) However, not more than 90% of the cost of social services could be paid in this manner.

Finally each "area plan" must:

1. provide for the establishment of a comprehensive and coordinated system for the delivery of social services within the planning and service area;

2. provide for the establishment and maintenance of information and referral sources in sufficient numbers to assure that all older persons within the planning and service area covered by the plan will have reasonably convenient access to such sources.

3. lend technical assistance to providers of social services in the planning and service area covered by the area plan.

To provide funds for State administration for planning, coordination, and evaluation, this Title would authorize to be appropriated $20 million for the fiscal year ending June 30, 1973, $20 million for fiscal year ending June 30, 1974, and $20 million for fiscal year ending June 30, 1975. Grants made to states for the cost of administration expenses would be made on a 75/25 basis.

Each state allotment would bear the same ratio to such sum as the population aged sixty-five or over in such State bears to the population aged sixty-five or over in all States. However, no State would be allotted less than one-half of 1 per cent of the sum appropriated for the fiscal year for which the determination is made, or $100,000 whichever is greater.

Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands would be allotted no less than one-fourth of 1 per cent of the sum appropriated for the fiscal year for which the determination is made, or $50,000 whichever is greater.

In addition, the Commissioner could make grants to any public or nonprofit private agency or organization, within such State, for paying part or all of the cost of developing or operating community model projects which would expand or improve social services to older persons.

For the purpose of carrying out this section, there would be authorized to be appropriated $70 million for the fiscal year ending June 30, 1973, 3105 million for the fiscal year ending June 30, 1974, and $140 million for the fiscal year ending June 30, 1975.

TITLE IV—TRAINING AND RESEARCH

Title IV would encompass three different types of programs:

A. Training programs,

B. Research and Development Programs.

C. Multidisciplinary Centers of Gerontology.

The purpose of the "Training" program would be to improve the quality of service and to meet the critical shortages of adequately trained personnel in the field of aging.

This would be done by:

(1) developing information of the actual needs for personnel to work in the field of aging;

(2) provide a broad range of quality training opportunities; and

(3) attracting a greater number of qualified persons into the field of aging.

Under part B—*Research and Development Projects*—the Commissioner would make grants to any public or nonprofit private agency in the State for the purpose of:

(1) studying current patterns and conditions of living of older persons and identifying factors which are beneficial or detrimental to the wholesome and meaningful living of such persons; and

(2) developing or demonstrating approaches, methods, and techniques for achieving or improving coordination of community services for older persons.

Under Part C—*Multidisciplinary Centers of Gerontology*—the Commissioner could make grants to public and private nonprofit agencies in the State for the purpose of establishing or supporting multidisciplinary centers of gerontology. These centers would:

(1) recruit and train personnel at the professional and subprofessional levels;

(2) conduct basic and applied research on work, leisure, and education of older people;

(3) serve as a repository of information and knowledge with respect to the areas for which it conducts basic and applied research; and

(4) help to develop training programs on aging in schools of social work, public health, health care administration, education, and in other such schools at colleges and universities.

There would be authorized to be appropriated $15 million for fiscal year ending June 30, 1973, $20 million for fiscal year ending June 30, 1974, and $25 million for fiscal year ending June 30, 1975 for section A; and $20 million for fiscal year ending June 30, 1973, $30 million for fiscal year ending June 30, 1974, and $40 million for fiscal year ending June 30, 1975 for sections B and C.

Also under this title, the Commissioner would conduct a comprehensive study and survey of the transportation problems of older Americans. This would be done with the guidance of the Secretary of Transportation and the Secretary of Housing and Urban Development.

There would be authorized to be appropriated for the purposes of this section, $7.5 million for fiscal year ending June 30, 1973, $15 million for fiscal year ending June 30, 1974, and $20 million for fiscal year ending June 30, 1975.

TITLE V—MULTIPURPOSE SENIOR CENTERS

This Title would authorize the Secretary of Health, Education, and Welfare to insure mortgages for new multipurpose senior centers, including the equipment to be used in its operations. To assist nonprofit private agencies in reducing the cost of borrowing from other sources for the construction of such facilities, the Secretary could make annual interest grants to such agencies.

Contracts for annual interest grants under this section would not be entered into in an aggregate amount greater than would be authorized in the appropriations Act. In no event would the total amount of annual interest grant exceed $1 million of the first year, or exceed $3 million on July 1, 1974, or exceed $5 million on July 1, 1975.

The Commissioner could also make grants to meet the costs of compensation of professional and technical personnel for the initial operation of the new multipurpose senior centers and for the delivery of social services established therein.

For the purpose of this part of the Title, there would be authorized to be appropriated $10 million for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

TITLE VI—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

This Title would extend and expand the authorization for the Foster Grandparents Program and other Older Americans Community Service Programs. These programs, which were transferred to the ACTION agency in 1971, seek to involve Older Americans in a variety of programs designed to benefit persons, and both children and adults who have exceptional needs.

For the "Foster Grandparents Program and Older Americans Community Service Programs" there would be authorized to be appropriated for grants and contracts, $41 million for fiscal 1973, $52 million for fiscal 1974, and $63 million for fiscal 1975.

TITLE VII—NUTRITION PROGRAM

This Title makes several minor conforming changes in the nutrition legislation, Public Law 92-258, which was passed last year. The changes are primarily designed to produce greater coordination between nutrition programs and the social service programs provided in Title III.

TITLE VIII—AMENDMENTS TO OTHER ACTS

This provision would amend the Library Services and Construction Act, the National Commission on Libraries and Information Science Act, the Higher Education Act, and the Adult Education Act, so as to provide expanded opportunities for older Americans to participate in programs of continuing education.

For the purpose of making grants to States to enable them to carry our public library service programs for older persons, there would be authorized to be appropriated $11.7 million for fiscal year ending June 30, 1973, $12.3 million for fiscal year ending June 30, 1974, $12.9 million for fiscal year ending June 30, 1975, and $13.7 million for fiscal year ending June 30, 1976.

In addition, the Commissioner is authorized to make grants to institutions of higher education to study the problems of the elderly, particularly with regard to transportation and housing.

For this purpose there would be authorized to be appropriated $5 million for fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to July 1, 1977.

TITLE IX—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

This Title is designed to provide community service jobs for low-income Americans 55 years of age and older in the fields of education, social services, recreational services, conservation, environmental restoration and economic development. The programs created by Title IX are structured in such a way as to draw upon the experiences of numerous pilot and demonstration projects conducted by the Department of Labor under its Operation Mainstream Program. It is estimated that as many as 40 to 60 thousand jobs could be created under the provisions of this Title.

Under this Title there would be authorized to be appropriated $100 million for the fiscal year ending June 30, 1973, and $150 million for the fiscal year ending June 30, 1974.

Each State would be allotted such sum which bears the same ratio to its population, aged fifty-five or over, to the same aged population in all the States. However, no State would be allotted less than 1 per centum of the sum appropriated for the fiscal year for which the determination was made.

Guam, American Samoa, the Virgin Islands, and the Trust Territory would each be allotted an amount equal to one-half of 1 per cent of the sum appropriated for the fiscal year for which the determination was made.

TITLE X—MIDDLE-AGED OLDER WORKERS TRAINING ACT

This Title would be designed to provide manpower training programs and other services to increase job opportunities for middle-aged and older persons. The Secretary of Labor would carry out the provisions of this Title within the framework of existing programs during the remainder of fiscal year 1973.

Under this Title, there would be established a comprehensive midcareer development service program which would be administered by the Manpower Administration in the Department of Labor, to assist middle-aged and older workers to retain and obtain remunerative employment by providing manpower training, counseling, and special supportive services to such workers.

There would be authorized to be appropriated for the purpose of carrying out the provisions of this title, $100 million for the fiscal year ending June 30, 1974.

By Mr. KENNEDY (for himself, Mr. CANNON, Mr. CRANSTON, Mr. GRAVEL, Mr. HART, Mr. HUMPHREY, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. MUSKIE, Mr. MCGOVERN, Mr. NELSON, Mr. PELL, Mr. PASTORE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENSON, and Mr. WILLIAMS):

S. 736. A bill to provide for research for solutions to the problem of alienation among American workers and to provide for pilot projects and provide technical assistance to find ways to deal with that problem, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. KENNEDY. Mr. President, I am introducing today legislation to respond to the problem of worker alienation and job dissatisfaction in the United States. Seventeen other Senators join me in cosponsoring this legislation.

The Worker Alienation Research and Technical Assistance Act of 1973 provides for research into the problem of worker alienation in all occupations and technical assistance to those unions, workers, companies, State, and local governments seeking to find ways to relieve this problem. The bill provides $10 million for fiscal year 1974 and $10 million for fiscal year 1975.

Throughout history, the United States has prided itself on the talents, the dedication, the imagination, and the initiative of the American worker. The growth and development of our economy has been based not only on our technological genius but on the high level of performance of our working men and women.

But despite our pride in the performance of American labor, adequate wages, and adequate working conditions have been achieved only with great difficulty. Institutions were slow to respond. Now, once again we see a similar lethargy.

As we marvel at the increasing automation of the assembly lines and the benefits of modern office equipment, we have forgotten once again that behind the assembly lines and the electric typewriters are human beings who spend the major portion of their waking lives at those jobs.

The issue of worker discontent in America can no longer be avoided. In our plants and our factories and our offices, there is a growing sense of dissatisfaction that affects untold numbers of American workers. The extent of this dissatisfaction and discontent is not fully known. Nor is the full impact of this discontent on the mental and physical health of workers and on the productive capacity of our Nation.

The recent report on "Work in America" by an HEW task force emphasizes both the existence of the problem and the embryonic-state of our knowledge of what to do about it. Thus, the report summary notes:

> And significant numbers of American workers are dissatisfied with the quality of their working lives. Dull, repetitive, seeming meaningless tasks, offering little challenge or autonomy, are causing discontent among workers at all occupational levels.

And I am pleased that the clearly negative attitude of the past leadership of the Department of Labor on this issue may be shifting as a result of the appointment of Peter J. Brennan. In his confirmation hearings before the Senate Labor and Public Welfare Committee, Mr. Brennan expressed his view that worker alienation was a major problem in America today. He also promised to work with the Senate in securing legislation to meet this problem.

In hearings that the Senate Subcom-

mittee on Employment, Manpower and Poverty held last July, which I was privileged to chair, we heard from workers, union officials, corporate managers and researchers. All testified to similar conditions and all urged action from Government, labor and management to meet the problem.

Gary Bryner, president of the UAW local at Lordstown, talked to the "symptoms of the alienated worker" where the absentee rates is moving ever upwards, where the turnover rate is enormous and where the use of alcohol and drugs is becoming an ever more serious problem. At Lordstown, Bryner told of the conveyor that sends 101.6 Vega automobiles out of the factory door every hour, with workers required to execute their assembly line operation every 36 seconds.

The lack of corporate concern for the worker is described by Bryner in the orientation of new assembly line employees:

He is brought into the plant and his orientation session ends and starts with his papers on insurance and his assignment to a foreman who immediately puts his warm body on the line.

The job assignments within the plant in the same classification are solely the right of management, no say for the employee—The job content, and there is not much of that—when you have 36 seconds to do a job, and all we are left with is the deadend job—jobs that offer little challenge to the more educated worker, little chance for advancement, and hardly any chance to participate as a worker.

The disregard for the worker as a human being was cited by James Wright, now director of National Policy Affairs, National Center for Urban Ethnic Affairs, and a former steelworker. He testified:

I can recall when a friend of mine was killed in a car accident, and I took the day off to attend his funeral, and I was disciplined for two days because this was an unexcused absence.

These are some of the problems and frustrations and discontents that are producing a class of angry and rebellious workers in America.

And for a nation concerned about productivity, our failure to heed the signs of restlessness among workers in our plants and factories seem difficult to grasp.

For we have the statistics of the National Commission on Productivity to tell us that something is wrong with the economic machine. In one major industry absenteeism increased by 50 percent, worker turnover by 70 percent, worker grievances by 38 percent and disciplinary layoffs by 44 percent in a period of 5 years.

Yet, to a large degree, the response of government, of unions and of business has been to ignore the problem. We do not even know the extent of the problem. We do not know how many men and women unnecessarily suffer mental or physical illnesses whose cause is linked to their jobs. We do not know the extent of the use of drugs among young workers. We do not know the cost to the economy from the subsequent loss of productivity, or the cost to the society of pockets of despair among its workers. Nor do we know what changes in the design of the job and in the environment of work could produce increasing job satisfaction and productivity at the same time.

While there have been some experiments, as our hearings revealed, there was almost universal agreement that far too little is being done. That also was a conclusion of the HEW study.

Witnesses from the business world, including Robert Ford of American Telephone & Telegraph Co., Lyman Ketchum of General Foods, and Sidney Harman of Jervis Corp. all discussed some of the attempts by their corporations to respond to the problem of worker alienation. But all agreed that there exists a vast area of inadequate information on a nationl level, a vacuum which helps prevent the education of government, business and union leaders to the problem.

Their view was confirmed by Irving Bluestone, vice president of the UAW, who added that working models and practical on-the-job experiments are needed in addition to basic research.

The motivation for attempting such a program begins with the worker. For he is a citizen, a human being. And it should not be the potential for increasing his productivity that spurs our interest; but our concern, as Bluestone stated, to "find new ways to make human beings more human."

And so in the bill that is being introduced today, we hope to break down the resistance of our institutions to the idea of humanizing the workplace. We hope to make the quality of life for the worker on the job just as much a consideration in the eyes of labor and management as the quality of the product.

This bill authorizes jointly the Secretary of Health, Education, and Welfare and the Secretary of Labor to conduct research to determine the extent and severity of job discontent and to assess the costs to the economy of the problems of absenteeism, turnover, sabotage and loss of productivity associated with worker discontent.

In addition, research is directed into the incidence of mental and physical disease among workers, and into the methods now being used in both the United States and Europe in trying to meet the problem of worker alienation. We heard from Ford Foundation witnesses, who recently had traveled to Europe, of the innovations that have been tried there.

Recently, I also have learned of the interest of the French Government in stimulating similar research in an effort to measure worker discontent there. They too have seen the problem and are beginning to try and find ways to cope with it.

The bill also provides that the research results and recommendations will be made available to workers, to unions, to companies, to schools of management and industrial engineering and to the general public.

Technical assistance also will be made available to groups of workers, to unions, to companies, to State and local governments for the following efforts:

First, practical experimentation in meeting the problems of alienation in their own places of work;

Second, the development and conduct of pilot demonstration projects to improve our knowledge of how to relieve job satisfaction. These projects could include job enrichment, autonomous work groups, job restructuring, increased worker participation in decisionmaking, increased job mobility, and compensation on the basis of new skills learned.

The bill also provides for assistance in developing curriculums and programs for training and retraining professionals and subprofessionals in work humanization approaches and methods.

This was felt to be critically important by most of the witnesses because of the impact that industrial engineers and plant designers have on the conditions of work and their present lack of concern for the worker.

The bill also authorizes the Secretary of HEW to insure that Federal agencies seek to maximize job satisfaction and to consider that factor in the design of new Federal facilities.

At the same time, the bill authorizes the Secretary of Labor to seek assurance that job satisfaction is considered by Federal contractors.

For by providing the data and disseminating the results of research and technical assistance, we can stimulate among unions and corporations and the public in general not only an understanding of the scope and severity of this problem but an awakening to the ways in which they can begin to resolve it.

Mr. President, I ask unanimous consent that 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. 736

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 "Worker Alienation Research and Technical Assistance Act of 1973".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) alienation of American workers because of the nature of their jobs is a problem of growing seriousness to the national economy and to individual workers;

(2) alienation often results in high rates of absenteeism, high turnover, poor quality work, a decline in craftsmanship, and lessened productivity;

(3) alienation often results in high levels of frustration among workers and causes poor mental health, poor motivation, alcoholism, drug abuse, and social dissatisfaction among workers;

(4) it is in the national interest to encourage the humanization of working conditions and the work itself so as to increase worker job satisfaction, diminish the negative effects of job dissatisfaction, and to the extent possible, maximize potential for democracy, security, equity, and craftsmanship;

(5) it is in the national interest to promote the fullest development of the abilities, creativity, skills, and personal growth of all American workers; and

(6) the problem of worker discontent and alienation has for too long been largely ignored by government, management, and unions.

SEC. 3. (a) The Secretary of Labor and the Secretary of Health, Education, and Welfare are jointly authorized to either directly or by way of grant, contribution, or other arrangement—

(1) conduct research, to determine the extent and the severity of job discontent and the problems related to the nature of work in American worksites, included but not limited to—

(A) quality of work, levels of turnover, absenteeism, sabotage, and loss of productivity, and the monetary costs to the economy of such problems; and

(B) the health of workers, including statistics on mental and physical health and emotional stability;

(2) conduct research on methods now being used in the United States and abroad to meet the problems of work alienation, including more flexible hours of work, reduced working days, profit sharing, additional responsibility for workers, job rotation, worker participation in the decisionmaking process with regard to the nature and content of his job, redesign of jobs and production patterns, autonomous work groups, and additional opportunity for education, training, and advancement;

(3) collect and disseminate research results and recommendations for relieving worker discontent and for improving the quality of work, to workers, to labor organizations, to businesses, to schools of management and industrial engineering, and to the general public;

(4) provide technical assistance to workers, labor organizations, businesses, State and local governments for (i) practical experimentation in meeting the problems of alienation in their own places of work, and (ii) the development and conduct of pilot demonstration projects which show promise of making significant contributions to the knowledge in the field of resolving problems related to worker alienation, including such projects as job enrichment, guaranteed employment, reduced workdays and weeks, autonomous work groups, job restructuring, increased worker participation in decisionmaking on the nature and content of jobs, increased job mobility, job rotation, group productivity, bonuses, compensation on the basis of skills learned, continuing education and training for new careers and new opportunities for increased job satisfaction;

(5) provide support for the Triennial Working Conditions Survey of the Department of Labor;

(6) assist in the development and evaluation of curriculum and programs for training and retraining professionals and subprofessionals in work humanization approaches and methods;

(7) conduct pilot projects for a variety of experiments in both blue collar and white collar work redesign in selected Federal agencies to determine the effectiveness of such projects in improving employee job satisfaction.

(b) In carrying out the research and technical asistance program authorized by this section, the Secretary of Labor and the Secretary of Health, Education, and Welfare shall consult with the head of the National Institute of Mental Health, the National Science Foundation, the National Institute for Occupational Safety and Health, and representatives of workers, unions, management, academic, and medical experts.

(c) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall file a report not later than December 31, 1974, and again not later than December 31, 1975 to the Congress, on the administration of this Act together with such recommendations, including recommendations for additional legislation, as they may deem appropriate, and may file such interim reports as they deem advisable.

SEC. 4. (a) The Secretary of Health, Education, and Welfare, in consultation with the Chairman of the Civil Service Commission and the Administrator of the General Services Administration, is authorized and directed to assist Federal agencies in maximizing job satisfaction of their employees.

(b) The Administrator of the General Services Administration is authorized to consider maximizing job satisfaction in the design of new Federal facilities.

SEC. 5. (a) In order to carry out the provisions of this Act, the Secretary of Labor and the Secretary of Health, Education, and Welfare are each authorized to —

(1) procure temporary and intermittent services to the same extent as authorized by section 3109 of title 5, United States Code;

(2) secure from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the United States Government, or of any State, or political subdivision thereof, information, estimates, and statistics required in the performance of his functions under this Act;

(3) enter into and perform such contracts, leases, cooperative agreements or other arrangements as may be advisable without regard to section 3709 of the Revsed Statutes (41 U.S.C. 5) and other provisions of law relating to competitive bidding; and

(4) accept and use with their consent, with reimbursement, such services, equipment and facilities of other Federal agencies as are necessary to carry out such functions efficiently and such agencies are authorized to loan, with reimbursement, such services, equipment and facilities to the Secretary of Labor, to the Secretary of Health, Education, and Welfare, or both.

(b) Each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Secretary of Labor, to the Secretary of Health, Education, and Welfare, or to both, upon written request made by that Secretary.

(c) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to take whatever action is necessary to avoid duplication or conflict in the administration of this Act.

By Mr. MUSKIE (for himself, Mr. BIDEN, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. JAVITS, Mr. KENNEDY, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. TUNNEY, and Mr. WEICKER):

S. 738. A bill to establish and support State inspection programs for auto emission control systems. Referred to the Committee on Public Works.

By Mr. MUSKIE (for himself, Mr. BIDEN, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. HART, Mr. HATHAWAY, Mr. JAVITS, Mr. KENNEDY, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. TUNNEY, and Mr. WEICKER):

S. 739. A bill to allow use of highway funds for any transportation improvements necessary to avoid air pollution dangerous to public health, and to prohibit highway projects which may create air pollution dangerous to public health. Referred to the Committee on Public Works.

Mr. MUSKIE. Mr. President, on January 18, I announced my intention to introduce three bills designed to improve the flexibility with which the highway program and money from the highway trust fund can be used to reduce traffic congestion in urban areas, aid in controlling air pollution, and begin to reduce the heavy demands of private automobiles for scarce petroleum resources.

I am introducing these three proposals, and I hope that they will receive the kind of attention which a New York Times editorial of January 27 suggested. "Before gas masks and gas rationing become the order of the day," said the Times:

It is time for Congress and the Department of Transportation to draw up the plans and take the action to meet a rapidly developing emergency.

My first proposal is similar to the amendment which Senator COOPER and I proposed last year to allow urban areas the option of using their highway system funds for public transportation. It authorizes $1 billion a year for this purpose. This year, Senator HOWARD BAKER of Tennessee has joined with me in offering this as an amendment to S. 502, the committee bill. Also, Senators BIDEN, BROOKE, BUCKLEY, CASE, CRANSTON, HART, HATFIELD, HATHAWAY, HUMPHREY, JAVITS, PASTORE, PELL, PROXMIRE, RIBICOFF, STEVENSON, and TUNNEY have agreed to cosponsor this amendment.

The second proposal is a separate bill which adds to the Highway Safety Act a requirement that States establish programs to inspect the auto emission control system of each vehicle. This inspection program would be supported from the Highway Trust Fund. Senators BIDEN, BROOKE, CASE, CRANSTON, HART, HATFIELD, HATHAWAY, JAVITS, KENNEDY, MOSS, PASTORE, PELL, RIBICOFF, TUNNEY, and WEICKER have joined as cosponsors of this important legislation.

The third proposal is a bill to allow the Secretary of Transportation to direct up to 10 percent of each year's Highway Trust Fund revenues to emergency programs to provide or improve alternative transportation systems in urban areas which are forced, by air quality regulations, to reduce reliance on private motor vehicles. It also authorizes transfer of funds from highway building programs in those urban areas with dangerously high air pollution levels to other transportation system improvement efforts. Finally, it prohibits approval of any new highway construction projects which may cause air pollution to exceed levels considered safe for public health. Cosponsors include Senators BIDEN, BROOKE, CASE, CRANSTON, HART, HATHAWAY, JAVITS, KENNEDY, MOSS, PASTORE, PELL, RIBICOFF, TUNNEY, and WEICKER.

I ask that the New York Times editorial to which I have referred and texts of the three proposals appear at this point in the RECORD.

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

COMING UP FOR AIR

One of the fiercest battles in the last Congress ended in a stalemate. The Senate voted to open up the sacrosanct Highway Trust Fund to permit the use of $800-million a year for mass transit. Since the fund currently has annual revenue of $5.8 billion, that was hardly a huge diversion from the normal

flow of money for highways. Even so, the House Public Works Committee and the highway lobby refused to yield a cent. As a result, Congress failed to renew the Federal Highway Act.

In the new Congress, lines are already forming for another struggle on this issue. Mass transit advocates are seeking a greater share of money from the fund than the Senate approved last lear. Senator Muskie of Maine, for example, has introduced a bill to allot $1 billion a year for buses, subways and commuter railroads. As they have in the past, critics of the highway program point out that major highways in cities and suburbs often disrupt neighborhoods, invade parks, obliterate historical landmarks, and usually intensify the traffic congestion that they are designed to relieve.

But the Environmental Protection Agency's plan for gasoline rationing in the Los Angeles basin to cut automobile traffic sufficiently to meet Federal clean air standards provides dramatic force to these familiar arguments. Los Angeles suffers the worst smogs, but it is not alone. There are 28 cities in 18 states which, according to E.P.A., will be unable by 1977 to meet Federal air quality standards primarily because of their reliance on private automobiles for their basic transportation. Under those circumstances, an improved transit system—either buses, subways or a radically new technology—becomes not merely a desirable alternative but an imperative necessity.

For that reason, Senator Muskie has introduced a bill to provide emergency help. It would authorize the Secretary of Transportation to use up to 10 per cent of Highway Trust Fund revenues for programs to improve or develop transportation systems in those 28 cities. Since subways are enormously expensive to construct and commuter railroads are expensive to renovate, this additional sum or $580 million would not turn the problem around in the near future, but it would make possible a faster start. Combined with even a modest shift of commuters from private automobiles to buses, it could diminish the danger.

Before gas masks and gas rationing become the order of the day, it is time for Congress and the Department of Transportation to draw up the plans and take the action to meet a rapidly developing emergency.

AMENDMENTS NO. 4

On page 4, lines 19 and 20, strike out "$650,000,000" at each place it appears and insert in lieu thereof at each place "$1,050,000,000".

On page 32, line 14, strike out all through line 10 on page 35 and insert in lieu thereof the following:

"SEC. 130. (a) Section 142 of title 23, United States Code, is amended to read as follows:

"'§ 142. Public transportation

"'(a) To encourage the development, improvement, and use of public mass transportation systems for the transportation of passengers within urbanized areas, so as to increase the efficiency of the Federal-aid system, sums apportioned in accordance with paragraph (6) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the cost of construction of and acquisition of facilities and equipment for public mass transportation projects. For purposes of this section the term "public mass transportation" means ground transportation which provides general or special service (excluding schoolbus, charter, or sightseeing service) to the public on a regular and continuing basis, and includes activities designed to coordinate such service with other transportation. Projects which may be financed under this subsection shall include, but not be limited to, exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus, rail, and other public mass transportation passengers, construction of fixed rail facilities, and for the purchase of passenger equipment, including rolling stock for fixed rail.

"'(b) To encourage the development, improvement, and use of public transportation systems for the transportation of passengers in such urban areas and rural areas as may be designated by the State and approved by the Secretary on the basis of local transportation need, so as to increase the traffic capacity of the Federal-aid system, sums apportioned in accordance with paragraphs (1), (2), (3), and (5) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within their respective systems, for the construction of exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public transportation passengers, and for the purchase of passenger equipment other than rolling stock for fixed rail.

"'(c) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of title 23, United States Code.

"'(d) For all purposes of this title, a project authorized by subsections (a) and (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"'(e) No project authorized by this section shall be approved unless the Secretary of Transportation is satisfied that public mass transportation systems will have adequate capability to utilize fully the proposed project and to maintain and operate properly any equipment acquired under this section.

"'(f) No equipment which is acquired with financial assistance provided by this section shall be available for use in charter, leased, sightseeing, or other service in any area other than the area for which it was acquired.

"'(g) In the acquisition of equipment pursuant to subsections (a) and (b) of this section, the Secretary shall require that such equipment meet the standards prescribed by the Administrator of the Environment Protection Agency under section 202 of the Clean Air Act, as amended, and shall authorize, wherever practicable, that such equipment meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act, as amended.

"'(h) The Secretary shall assure that the provisions of subsection (a) of section 16 of the Urban Mass Transportation Act of 1964, as amended, relating to planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped (as defined in subsection (d) thereof) shall apply in carrying out the provisions of this section.

"'(i) Funds available for expenditure to carry out the purposes of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"'(j) The provisions of chapters 1, 3, and 5 of title 23 of the United States Code shall apply in carrying out the provisions of this section except with respect to projects within urban areas as to which the Secretary determines the provisions of the Urban Mass Transportation Act of 1964, as amended, are more appropriately applicable.

"'(k) No sums apportioned in accordance with paragraph (6) of subsection (b) of section 104 of this title shall be transferred and utilized on any other Federal-aid system than that authorized by subsection (d) of section 103 of this title.'

"(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by striking

"'142. Urban highway public transportation.'

and inserting in lieu thereof:

"'142. Public Transportation.'."

S. 738

A bill to establish and support state inspection programs for auto emission control systems

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

SECTION 1. Chapter 4 of Title 23, United States Code is amended by adding at the end thereof the following new section:

"SEC. 405. Motor Vehicle Inspection Programs.

"(a) After January 1, 1975, the Secretary shall not approve a state highway safety program under section 402 of this Act unless he determines that the state has established a program, certified as adequate by the Administrator of the Environmental Protection Agency, to inspect the auto emission control systems of motor vehicles which have been sold in accordance with certifications granted under the provisions of Section 206 of the Clean Air Act (42 U.S.C. 1857 et seq.), which inspection programs shall include:

"(1) An examination of the emission control system of each motor vehicle licensed to operate in the state, on at least an annual basis, to assure that the emission control system is operating properly, and

"(2) As soon as the Administrator of the Environmental Protection Agency has announced the existence of an in-use motor vehicle emission control inspection system in accordance with the provisions of section 207(b) of the Clean Air Act, a test of the operation of the emission control system of each motor vehicle licensed to operate in the state, on at least an annual basis, to assure that emissions of that vehicle do not exceed limits required by regulations published in accordance with section 202 of the Clean Air Act.

"(b) Funds authorized to be appropriated to carry out this section shall be used to aid the states in establishing and operating emission control system inspection centers and shall be available to pay up to 75 percentum of the cost to the state of establishing and maintaining such centers, provided, however, that Federal share of the cost of establishing and maintaining such centers may be increased to 90 percentum of the cost to the state where such centers are also used for inspection programs relating to safety, as prescribed in standards published in accordance with section 402 of this Act.

"(c) Sums authorized to be appropriated in accordance with subsection (d) shall be apportioned among the states in the ratio in which the population of each state bears to the total population of all the states, as determined by the latest available Federal census; provided, however, that the annual apportionment of each state shall not be less than one-half of one percentum of the total apportionment.

"(d) There are authorized to be appropriated to the Secretary of Transportation for implementation of this section, out of the Highway Trust Fund, $300,000,000 for the fiscal year ending June 30, 1974 and $400,000,000 for the fiscal year ending June 30, 1975. Sums appropriated in accordance with this subsection shall remain available until expended.

"(e) The Administrator of the Environmental Protection Agency, in cooperation with the Secretary of Transportation, shall publish regulations for implementation of

the inspection programs required by this section."

SEC. 2. The table of contents of chapter 4 of title 23 of the United States Code is amended by adding at the end thereof:

"405. Motor Vehicle Inspection Programs"

S. 739

A bill to allow use of highway funds for any transportation improvements necessary to avoid air pollution dangerous to public health, and to prohibit highway projects which may create air pollution dangerous to public health

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

SEC. 1. Subsection (f) of Section 103 of title 23, United States Code, is amended by adding "(1)" immediately following "(f)" and by adding a new paragraph to read as follows:

"(2)(A) The Secretary, upon the joint request of a State Governor and the local governments concerned, shall withdraw his approval for any route or portion thereof designated or selected in accordance with the provisions of subsections (b), (c), or (e) of this section and within an urbanized area where he determines that the Administrator of the Environmental Protection Agency has certified or otherwise stated that the air quality region which contains such urbanized area will fail to achieve, by July 1, 1975, levels of air quality necessary for attainment of the primary ambient air quality standard specified for carbon monoxide, nitrogen dioxide, or photochemical oxidants (hydrocarbons) in accordance with Section 109 of the Clean Air Act (42 U.S.C. 1857 et seq.).

"(B) Amounts apportioned to a State for projects on routes or portions thereof for which approval has been withdrawn in accordance with subparagraph (A) shall be transferred to and added to the amounts apportioned to such State under paragraph (6) of subsection (b) of section 104 of title 23, United States Code for the account of the urbanized area from which the withdrawal of the routes or portions thereof was made."

SEC. 2. Subsection (a) of section 104 of title 23, United States Code, is amended by adding "(1)" immediately following "(a)" and by adding a new paragraph to read as follows:

"(2)(A) Whenever an apportionment is made of the sums authorized to be appropriated for expenditure upon the Federal-aid systems, the Secretary shall deduct a sum in such amount not to exceed 10 per centum of all sums so authorized, as the Secretary deems necessary to provide emergency assistance for transportation system improvements in those air quality regions within a state which the Administrator of the Environmental Protection Agency has certified or otherwise stated will fail to achieve, by July 1, 1975, levels of air quality necessary for attainment of the primary ambient air quality standard specified for carbon monoxide, nitrogen dioxide, or photochemical oxidants (hydrocarbons) in accordance with section 109 of the Clean Air Act.

"(B) Amounts made available to a state in accordance with the provisions of subparagraph (A) of this paragraph shall be transferred to and added to the amounts apportioned to such State under paragraph (6) of subsection (b) of section 104 of title 23, United States Code, for the account of the urbanized area within the air quality region designated by the Secretary to receive the emergency assistance.

SEC. 3. Section 105 of title 23, United States Code is amended by adding at the end thereof a new subsection to read as follows:

"(h) The Secretary shall not approve any project in accordance with the provisions of this section where he receives a statement from the Administrator of the Environmental Protection Agency that such project may result in a failure to attain any primary ambient air quality standard specified in accordance with section 109 of the Clean Air Act."

Mr. BAKER. Mr. President, I would like to make a brief statement in support of the amendment proposed by the senior Senator from Maine which would allow urban areas to use urban highway funds to supplement other funds available for capital expenditures on public transportation systems.

This amendment is substantially the same as Cooper-Muskie amendment which was adopted by the Senate during action on the Federal Aid Highway Act of 1972 during the last session of Congress. I am sure that this cause will never be more ably championed than by Senator JOHN SHERMAN COOPER during the extensive committee, floor and conference consideration of that measure. I ask unanimous consent that a portion of his individual views contained in the Senate Public Works Committee Report of the 1972 act be inserted at the end of my statement.

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

Mr. BAKER. During the last Congress the proponents of the utilization of the Highway Trust Fund to finance the construction of fixed rail transit systems in urban areas were met with the criticism that the proposal would put in jeopardy the completion of existing highway programs, especially the interstate system which is still several years from completion. This criticism is unfounded. There is not a Member of this body who has any greater dedication to the rapid completion of the interstate system than I do. But the Muskie amendment, and the Cooper-Muskie amendment before it, would not divert to public transportation even one penny of funds allocated to the interstate program, to any other rural road program or intercity program.

The proposal would permit urban governments, which have become disenchanted with continued highway building as a response to urban transportation needs, to commit funds coming to them for their urban highway system established by section 103(d) of the Highway Act to the construction of alternate modes of transportation. In this way our cities would be allowed to respond with maximum flexibility to their peculiar needs without fear of forfeiting their share of the highway trust fund. With the high cost of construction of urban public transportation systems and the financial plight of most urban governments, all modes of transportation must compete equally for available funds or critical policy decisions regarding the urban environment may never be made. The time has come for an objective appraisal of transportation problems in the Nation's fast growing urban areas.

I would make briefly two further points with regard to the amendment proposed by Senator MUSKIE. I feel it is imperative that State governments retain ultimate control over the coordination of transportation systems throughout their State. The basic mechanism of the Highway Act provides the State final approval authority over all highway projects financed out of the Highway Trust Fund. This authority would apply also, I am advised, to development of public transportation systems under the amendment. It should be made clear that this final approval authority may be exercised by the State to prevent use of urban highway funds for the construction of public transportation systems only where the proposed diversion would directly interfere with development of nonurban highway programs. Responsibility for planning and development of urban systems must devolve to a greater degree to urban governments.

There is one other point that I would make in explaining my support for this proposed amendment. The highway trust fund is founded upon the proposition that those using the highway system by special use taxes pay for the construction and improvement of the system. While I do not believe that the pay-as-you-go concept must tie our hands in applying the fund to the development of badly needed alternate modes of transportation, I do not believe either that we can afford to scrap the concept so basic to the funding method. I strongly feel that we must establish a mechanism whereby transit systems supported by funds from the highway trust fund will contribute to the fund in turn.

I realize that at the outset the contributions of these systems could nowhere approach the levels needed from the fund. But I can foresee the day when mass transportation in our metropolitan areas, if efficiently administered, will enjoy such wide use as to be capable of making a substantial contribution.

This is a complex and difficult proposition. For that reason I intend to propose an amendment to the Highway Act commissioning a study by the Department of Transportation of revenue mechanisms, rates, and the impact of various alternatives. I believe that with such an approach mass transit systems can become a viable partner in this Nation's transportation network.

EXCERPT FROM INDIVIDUAL AND SUPPLEMENTAL VIEWS OF MR. COOPER—PUBLIC WORKS COMMITTEE REPORT ON THE FEDERAL AID HIGHWAY ACT OF 1972

URBAN MASS TRANSPORTATION

In the 1970 highway act, the Public Works Committees and the Congress added to Title 23 U.S.C. a new Section 142, to encourage the development, improvement, and use of public mass transportation systems within urbanized areas so as to increase the traffic capacity of the Federal-aid systems—limited however to systems operating motor vehicles on highways, "other than on rails". The section specifically authorized the Federal share of construction costs, from the Highway Trust Fund, for exclusive or preferential bus lanes, bus passenger loading areas and facilities, and transportation corridor parking facilities to serve bus and other public mass transportation passengers. In recent years amendments have been presented in the Senate from time to time, supported by an increasing body of opinion, to go further and permit use of the Trust Fund for urban mass transit.

I believe it both appropriate and necessary for the Congress to say that Highway Trust Funds allocated to urbanized areas may now

be used to supplement mass transportation funds, and that providing such flexibility is in fact the best hope for reducing traffic congestion and maintaining the usefulness of urban highway systems.

In the Committee, Senator Muskie offered an amendment to permit the use of Interstate highway funds within urbanized areas for alternative transportation modes. I offered as a substitute an amendment to section 142 of Title 23, United States Code, permitting the use of Urban Highway System funds for public transportation system construction and equipment—without the prohibition against rail transit. This proposal would allow urbanized areas to use their portions of the $800 million each year, authorized by the Committee bill for the Urban System, for such transportation modes as they determine necessary to meet the needs of their people. Senator Muskie joined in my motion and the decision of the Committee was very close. The "Cooper-Muskie amendment" was first adopted by a vote of 8 to 7, and later reversed.

I am proud that the Administration supports the amendment I offered in Committee and intend to offer in the Senate, in substantially the form I am asking be printed at the close of these views—and which I know is of interest to a number of other Senators.

I do not hold that the Highway Trust Fund as presently constituted can or should be the sole source of financing for both mass transit and highways. Both the Committee bill, which provides Federal funds for the purchase of buses, and my amendment, are in no way designed to permit the reduction or displacement of Federal financing for urban mass transportation. I think it clear that subway systems represent huge capital expenditures in a relatively small number of high-density metropolitan centers, and that the funds made available by this and future Highway Acts cannot possibly provide the primary Federal financing for them. But I think the time has come to resolve this issue, and to enable cities to better manage their capital expenditures for these closely related transportation modes. The possibilities for improvement include especially the development of personal rapid transit (known at D.O.T. as "people movers") for which the design choice of rail, or rubber tire on concrete guideways, should be primarily an engineering and economic decision rather than a statutory policy determination.

By Mr. WILLIAMS (for himself, Mr. KENNEDY, Mr. JAVITS, Mr. DOMINICK, Mr. BENTSEN, Mr. HUGHES, Mr. MONDALE, Mr. PELL, Mr. RANDOLPH, Mr. CRANSTON, Mr. STEVENSON, and Mr. NELSON):

S. 740. A bill to extend the program for health services for domestic agricultural migrant workers. Referred to the Committee on Labor and Public Welfare.

Mr. WILLIAMS. Mr. President, when I introduced the original Migrant Health Act which was passed in 1962, it was in recognition of the failure of existing private health services or Government programs to provide adequate health care services to the Nation's migrant workers.

The migrant and seasonal farmworker knows the daily tragedy of substandard living conditions, inadequate nutrition, and an inability to gain entry into any health-care system. He and his family are constantly plagued by communicable and chronic disease.

There was no mystery as to the reasons for these conditions. The average family income during the 1960's for a family of five was less than $2,500 per annum according to Department of Labor estimates. The depressed lifestyle of migratory laborers and their families, the isolation and exploitation they faced, and the lack of social services available to them as they crisscrossed the Nation from Texas to Michigan, Florida to Ohio and New York, from Arizona to California and Washington is evident.

In 1973, health care conditions for the migrant farmworker remain critical. According to the Department of Health, Education, and Welfare, the migrant health program still reaches less than 10 percent of the eligible population, and this is due largely to the inadequacy of funding levels.

A large number of studies have documented the poor health of migrants as a group. Among the findings of these studies are the following:

Migrant births occur outside of hospitals at nine times the national rate—18.1 to 2.4 percent.

Infant mortality for migrants is 25-percent higher than the national average—30.1 to 24.4 per 1,000 live births.

Mortality rates for TB and other infectious diseases among migrants are 2½ times the national rate; for influenza and pneumonia, it is 20-percent greater than the national rate.

Hospitalization for accidents is 50-percent higher than the national rate.

The average American has seven times the numbers of medical visits per year than the average migrant—4.3 against 0.61 visits.

In 1968, $12 per capita was spent for health services for migrants; more than $250 per capita was spent nationally.

But the first 11 years of the Migrant Health Act has clearly demonstrated that there are ways of developing health services for the Nation's migrant population. Night family health clinics have been started in labor camps. Bilingual personnel are employed. In fact, it was within the migrant health program that the recruitment and training of the bilingual community health worker was first started in a project in Kern County, Calif., in 1964. Some of the migrant projects, particularly in the Northern States, have made impressive strides in developing one-stop comprehensive primary care service. In other States, the migrant health program has provided financial incentives to existing health facilities seeking to induce them to accept migrant patients.

By 1971, as a result of a special migrant task force, the migrant health program had developed several prototypes of health care delivery services for various migrant populations. Ironically, despite the popular notion that it would be impossible to establish anything but makeshift operations for migrants in rural areas, it has been demonstrated that in less than 3 years, most of the projects could develop on-site laboratory capabilities, basic diagnostic services, family centered primary care rather than fragmented categorical clinics, bilingual personnel, on-site medical services and referral services to specialty practices.

Mr. President, despite the progress which has been made over the last 11 years in providing health care to migrant workers and their families, we have learned that the administration in its 1974 budget proposes to recommend the termination of the Migrant Health Act together with its built-in program direction and safeguards. In my judgment, this represents a callous disregard for everything which we in the Congress have worked to achieve—providing the migrant worker with a basic right to health.

Today, together with Senators KENNEDY, JAVITS, DOMINICK, BENTSEN, HUGHES, MONDALE, PELL, RANDOLPH, CRANSTON, STEVENSON, and NELSON I am introducing the Migrant Health Act Amendments of 1973. This represents not only our commitment to extending this important Federal initiative but also a recognition of the need to address ourselves to some additional problems which remain in the implementation of an effective health program for migrants.

In 1965, the Migrant Health Act was amended to include the provision of "necessary hospital care," but HEW determined that hospital care costs would not be covered by the program because of the low level of total funding. Attempts have been made to use medicaid and other Federal, State, or local payment programs to provide hospital care, but they have met with little or no success.

A November 1969 HEW task force report concluded that few States provide any medical assistance under medicaid for migrants, and, similarly, a 1971 OEO report found only 3.2 percent of migrants in Florida were covered by medicaid.

The most recent study conducted by Community Change, Inc., an HEW-funded year-long evaluation of the migrant health program, also found that migrants were not covered by medicaid or medicare and generally were excluded from any hospital care.

The study said:

> The site visits made it clear that comprehensive health services without hospital access were simply not comprehensive. Relying on "other resources" or "local responsibility" resulted in limited hospitalization, critical delays and numerous personal indignities.

Last year in testifying before the Senate Subcommittee on Migratory Labor and the Senate Subcommittee on Health, a representative of the lower Rio Grande Valley stated:

> To be admitted, the patient must pay a $150.00 deposit or sign a promissory note if he cannot show coverage under some kind of insurance plan or policy, regardless of his income or ability to pay. If the migrant worker or indigent is unable to pay his bill, the hospitals seek to collect on the promissory note. After repeated attempts have failed, the notes may be turned over to collection agencies who use whatever means available to collect.

Recently published Hill-Burton regulations have virtually closed the possibility of migrants getting hospitalization under the "free care" provision, and migrant health projects have been instructed not to allocate funds to hospitalization because of the drain this will cause on their resources.

This problem and others are addressed in this bill by first, increasing authorizations for the program generally, second,

establishing separate authority for payment of hospitalization costs for migrants, and third, permitting the Secretary to authorize migrant health projects to pay premiums for prepaid health care plans where such projects so request.

Another important provision of this bill relates to an amendment to the migrant health program enacted in 1970—Public Law 91-209—which mandated:

> Persons broadly representative of all elements of the population to be served must be given an opportunity to participate in the development * * * (and) in the implementation of such programs.

This provision was adopted following extensive hearings by the Migratory Labor Subcommittee into the powerlessness of the migrant worker. In May 1972, HEW published a final version of the migrant health regulations which had a somewhat weakened provision for consumer participation. After an inquiry from Members of the Senate, representatives of HEW stated that they would like to strengthen the language regarding consumer participation, but that the existing legislation did not justify it.

It was further stated that according to studies sponsored by HEW, consumer-based projects did in fact demonstrate "the greatest likelihood of operating a comprehensive health project which can meet the performance requirements of scale, accessibility, acceptability, and efficiency."

Testimony before subcommittees of the Labor and Public Welfare Committee has repeatedly revealed racial and cultural indignities which must be borne by the consumers of migrant health services. Consequently, this bill establishes a priority in the awarding of grants to those grantees whose policymaking boards are comprised of a majority of migrant and seasonal workers.

Mr. President, according to HEW, there are approximately 1,000,000 migrants and dependents. Also, there are approximately 3 million seasonal farmworkers who are eligible for service under this act. The Department's budget requests, however, have been geared to reach less than 10 percent of the target population.

The HEW estimate of the total cost of providing both comprehensive care and hospital services to the farmworker population eligible under the act was $600 million. Therefore, it is not surprising that in the past with low levels of budget requests and appropriations, it was impossible for the migrant health program to provide comprehensive care to the program recipients.

Most projects found it difficult, if not impossible, to provide the services that were considered essential to a comprehensive care facility. They also found financial restraints preventing them from providing the transportation facilities which were needed for adequate outreach.

In some of the more temporary or short-term projects where services are purchased on a visit-by-visit basis through the season, clinics have had to close before the migrants have left the area because the clinics ran out of funds. Other projects have cut corners by cutting down hours of clinic services. A visit to most of the clinics will show that funds are not used for spacious quarters or elaborate architecture. In fact, many of the projects have difficulty in meeting the human dignity requirement since they had no money to build adequate partitions or seating facilities for patients.

In addition, each year the program is left with a stack of approved but unfunded projects which are needed to serve other migrants but which cannot be funded because of inadequate appropriations. According to HEW, there are almost 900 counties that have a seasonal migrant impact, and 700 of the counties are not covered by the current program.

Each year, despite reports from the Department of Labor that fewer and fewer migrant and seasonal farmworkers will be utilized due to mechanization, existing projects keep reporting an increased caseload. Berrien County, Mich., for example, which is one of the largest migrant impact areas, has reported at least a 25-percent increase over the previous year for each of the past 3 years.

Sister Cecilia Abhold, administrator of the east coast migrant health project, has found that 77 percent of all migrants interviewed stated that they plan to be a part of the migrant stream next year, while only 17 percent indicated that they were in their last season. The sad fact is that migrant workers continue to seek work despite the fact that there indeed might be fewer jobs each year.

In the words of one migrant health project director describing one patient who came to his clinic:

> Recently he came to the Center for a follow-up examination and he thanked those who had assisted him. Without the specific advocacy of the Center, he might well have died at an early age. His only fault being that he, like thousands of others, does not fit into any of our neat programmatic medical insurance plans, nor does he have the resources to provide for his own care. He works in a most difficult and strenuous occupation, that of picking the food for your tables. The fruits of his labor are like those of many like him; he is poor, alienated and excluded from most meaningful social legislation; for although we are willing to benefit from his misery we are not willing to accept, and readily extricate ourselves from, the responsibility of providing for his most basic needs. This may be politically, and economically expeditious; but it also appears cynical and immoral.

Mr. President, this bill was unanimously reported by the Labor and Public Welfare Committee last year and passed the Senate on August 17, 1972, by a unanimous vote. Unfortunately no action was taken on this bill by the House.

There can be no question that the beneficiaries of this program are deeply concerned about its future. In the last several weeks I have received scores of letters urging me and my colleagues to act promptly to continue the Migrant Health Act. This outpouring from every section of this country is a further indication of the need for prompt action to continue this vital effort. I ask unanimous consent that a representative sample of this correspondence together with the text of the bill be included in the RECORD at this point.

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

JANUARY 17, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: It has been brought to my attention that the legislation that provides for the Delmo Migrant Health project is in jeopardy.

There is already a shortage of seasonal farm workers in this area and if this health assistance is eliminated it may decrease the amount of workers even more.

These people have a lower income and probably could be considered for welfare assistance which would cost the state more.

I would appreciate it if you would vote a renewal of this legislation.

Sincerely,

R. J. SWARTZ, D.D.S.

ACCOMACK COUNTY SCHOOLS,
Accomac, Va., January 15, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I write to urge you to approve legislation extending the Migrant Health Act.

I serve as chairman of the Project Policy Board, an advisory group for the migrant health services in this two-county area, and I can testify as to the great benefits the Migrant Health Act has brought to America's "forgotten people."

Your cooperation will be greatly appreciated.

Respectfully yours,

A. K. FISHER,
Assistant Superintendent.

BURLINGTON COUNTY COMMUNITY ACTION PROGRAM,
Burlington, N.J., January 17, 1973.

Senator HARRISON WILLIAMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: The quantity of migrants in New Jersey has diminished since my initial contacts with you and Willie James in 1964. Unfortunately, the quality of need has strangely maintained itself among migrants. It is our feeling here in Burlington County that any "coming up for breath" or relenting in our efforts to serve this often forgotten segment of the American population will have century long negative consequences. It is our fond hope that the influence of your office, ability, and experience will be meaningfully employed to insure that during the 93rd Congress;

1. Migrants are provided necessary, health, education and welfare benefits for the "good life",

2. A Chairman is appointed, with a feel and feeling for migrants as citizens of this great nation, to lead the Senate Sub-Committee on Migratory Labor.

Your continuing concern and cooperation in this matter is not taken for granted and greatly appreciated.

Sincerely yours,

ENOCH B. ROCHESTER,
Executive Director.

MARICOPA COUNTY RURAL ACTION COMMITTEE,

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: The Maricopa County Rural Action Committee has been meeting for over 8 years. The express concern of this committee has always been for the "Total" Health and Welfare of the migrant family. Therefore, we have had the

opportunity to observe first hand the changes in the health of the migrant community. These changes (all definite improvements) would not have been possible if it had not been for the Migrant Health Act.

We can testify that the results achieved through a very active health committee have been very good and well coordinated. We have seen what a program administered properly has done for these people. The committee would like to go on record as giving full support to the Migrant Health Act. We would certainly hate to see all this effort and accomplishment go down the drain, particularly at the expense of the migrant people!

Very sincerely yours,

MARIE HARMON,
Secretary.

THE MEDICAL COLLEGE OF WISCONSIN,
Milwaukee, Wis., January 5, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I have served as project physician at the Waushara County Migrant Health Center for the last two seasons.

I have been deeply impressed by the health needs in the migrant population in Wisconsin, the lack of available and appropriate srvices for this group, and the changes in health status and understanding that have come about because of the services funded by The Migrant Health Act.

I would regard the cessation of this funding as an utterly deplorable and irresponsible act, particularly since the only visible reason for doing so would be to lighten the debt incurred by our misadventures in Southeast Asia.

I would be most pleased to testify to the need for and success of migrant health funds in Wisconsin. We have collected data and experience which I believe would be of some value, were the need for this service not entirely obvious.

Let me also take this opportunity to support all efforts to end funds for military personnel and equipment in Southeast Asia.

Sincerely,

PETER M. GREY, M.D.,
Resident.

CRANBURY, N.J., *January 25, 1973.*

DEAR SENATOR WILLIAMS: It has come to my attention that the Congress may not extend the Migrant Health Act, thus terminating all funds for medical services to migrants and seasonal farm workers.

I have worked in my community with both professional and volunteer organizations serving migrants for at least 10 years. I feel that I know something of the plight of the migrant and the importance of continued commitment to funds which would meet some of their desperate health problems.

I implore you to do all you can to see that the Migrant Health Act continues.

Sincerely,

KATHRYN SHANKWEILER.

EAST SIDE HEALTH CENTER,
Greeley, Colo.

SENATOR HARRISON A. WILLIAMS: I am a project administrator for a health center established under HEW Migrant Health funds. The purpose of this letter is to urge you to continue and extend the Migrant Health Act.

As a taxpayer, I feel that clinics such as ours, are invaluable to the well being of our nation. Through the years, it has become very apparent to me, that many citizens cannot afford and do not receive adequate health care. In order to have a population that can be employed and self-supporting, they first must possess good health.

I would like to share with you a little about our community. It is a rural area composed of approximately 100,000 people, many of whom make their living from agriculture. Over 20% of the population are considered rural poor, or seasonal workers with an additional 10,000 migrant farm laborers. Yet, this is one of the richest counties per-capita in the state of Colorado.

The political climate in this area is, "we do not want federal funds, or the 'feds' telling us what to do". In spite of this, revenue sharing dollars are readily received and are to be spent on "capital improvements such as highways and new buildings".

Obviously under current attitudes, projects such as ours cannot survive. I am confident that with renewed funding, eventually health centers such as East Side, if they work within the community setting, will demonstrate and document the need for on-going health care for all citizens, and will become part of the total services supported by the community. This is a slow and tedious process, and with this goal in mind, federally funded sources of health care must continue to survive until this goal is accomplished.

If the funding source, Migrant Health Act is not extended, goals such as above must be abandoned and more critical, people—Americans who have had a taste of adequate health care and are learning to utilize it, will once again be left with nothing. This situation can do nothing but produce an environment of unrest rather than the peace and harmony we Americans are striving for in the 1970's.

I urge you please extend the Migrant Health Act!

Enclosed is the reprint of an article which appeared in the local newspaper. It is one of the many attempts to create positive attitudes regarding the East Side Health Center.

Sincerely,

PATRICIA A. FAY, R.N.,
Project Administrator.

DEPARTMENT OF HEALTH,
Kingston, N.Y., January 16, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: As a member of a Migrant Health Project. I am advocating the necessity to extend the *Migrant Health Act.*

The general health of migrants and seasonal farmworkers is crucial. Migrant Health Projects which are dependent upon the continuation of the *Migrant Health Act* work toward improving the health of migrant workers. Programs such as ours try to deliver health measues to these people, who otherwise would have no health care whatsoever.

The right to health care should be given to all. Migrants are medically indigent for the most part. Migrant Health Programs are dedicated to improve this situation. Without the *Migrant Health Act,* migrant workers will find themselves in a more serious situation.

Should they be denied health care? If the *Migrant Health Act* is abolished, they will be denied the right to have health and health services.

I am making this plea to you. Please do whatever you are capable of doing in regard to revitalizing the *Migrant Health Act.* Thank you for your time and consideration.

Sincerely yours,

GEORGE ALTIMONDA,
Program Planner.

TEXAS STATE DEPARTMENT OF HEALTH,
Austin, Tex., January 8, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: There is considerable concern that the Migrant Health Act, which provides medical services to migrant and seasonal farmworkers, will be terminated in June of 1973.

I am asking your support for the continuation of the Migrant Health Act for the following reasons:

(1) The recipients of this program have little or no medical care provided for them. Most of them do not qualify for welfare or other means for emergency medical care.

(2) Economic Impact on Agriculture—Farmers have increasing problems of obtaining adequate labor. Migrant Health Care Projects have shown that migrants consistently return to the area where they can get medical attention, thus producing a reliable labor force for the farmer.

(3) Economic Impact on Existing Medical Care Delivery Systems—Hospitals cannot absorb additional indigent cases. Patients (migrants and seasonal farmworkers) are usually seen in the clinic setting. Lack of funding will cause an increased indigent patient load on the physicians and city or county emergency medical funds. In brief, migrants and seasonal farmworkers will not receive medical care.

Thank you for your active participation and support of the Migrant Health Act.

Sincerely yours,

BILL F. MITTAG,
Texas Migrant Health Program.

WAUSHARA COUNTY MIGRANT HEALTH PROJECT,
January 11, 1973.

SENATOR H. A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: The Waushara County Migrant Health Project presently has two clinic sites, one at Wautoma, Wisconsin and one at Endeavor, Wisconsin. Each year a substantial number of migrant farm workers come to our area to work in the fields and processing plants. Wautoma also has a large influx of tourists. The population of the area more than doubles in the summer. Without the Migrant Health Clinics, the providers in the area would be hard pressed to serve everyone needing medical care.

The Migrant Health Project is severely needed for more than the above stated reason. The average migrant family size is six; the average family annual income is under $2,100.00. The amount of Migrant Health Act funds expended in fiscal year 1972 was expected to average 5.10 per person. As a nation, we average 324.100 for health needs per person. The private consumer is estimated to spend 204.00 for his health costs. So it is little wonder that the infant mortality rate for migrants is 2½ times the national average. Mortality rates for tuberculosis and other infectious diseases are 2½ times higher than the national rate as well. The average life expectancy for the migrant is under 60 years of age; for the average U.S. citizen is over 70 years of age. The migrant infant death rate is over 68 deaths per 1,000 live births. The statistics for today's migrants are comparable to the national average in the year 1930. A recent study found that under age 3, some 59 per cent have never had immunizations.

These statistics provide grim evidence that the Migrant Health Act not only should be extended but that its funds should be increased.

In an affluent America, let us not allow children to suffer crippling diseases because of lack of immunizations. Unlike other less transient members and aspirants of the "American Dream" the migrant does not have the necessity of employer matched health insurance. His ability to receive help is often stifled by not meeting residence requirements, yet he picks the nations crops.

This letter constitutes a fervent appeal a strong request that the Migrant Health Act be extended with increased funds.

Sincerely,

JAMES NIEMEIER,
Project Director.

KANSAS CITY-WYANDOTTE COUNTY,
DEPARTMENT OF HEALTH,
Kansas City, Kans., January 5, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington D.C.

DEAR SENATOR WILLIAMS: I am writing you to request your support of the Migrant Health Act (under the Department of Health, Education and Welfare) which, it is my understanding, is in serious jeopardy.

The Kansas City-Wyandotte County Health Department has had a Migrant Health Grant for nine years. Our close association with the migrants makes me feel that I can speak authoritatively about the magnitude of the health problem these people have.

In my opinion, it would be a serious mistake if the Migrant Health Act was discontinued—a mistake that the United States cannot well afford to make. These migrants live under very minimal health conditions, both at their home base and in the areas to which they travel seeking work, and cannot afford to pay for medical and health-related services from their meager earnings. They tend to have large families and to live in very crowded conditions in an insanitary manner which promotes and fosters communicable diseases and infections.

Although the Kansas City-Wyandotte County Health Department is not applying for a grant after the expiration of our present one because of the change in the Federal Guidelines as established by the *Federal Register*, we know that the migrants coming into this county will still require some agency or some mechanism to take care of their health needs. We, therefore, request your support in seeing that the Migrant Health Act is continued.

Very sincerely,
N. G. WALKER, M.D., M.P.H.,
Director.

HEALTH DEPARTMENT,
Modesto, Calif., January 10, 1973.

Hon. JOHN J. MCFALL,
Chairman, House of Representatives,
Washington, D.C.

DEAR MR. MCFALL: It has come to my attention that the Migrant Health Act will expire in June of 1973. Since we have many seasonal agricultural workers in our county and at present have a very fine rural health program funded by Federal money, the Health Department is very concerned about the serious effect on the health of the farm workers if this program were to be discontinued.

I have personally had a very close association from the beginning with the Stanislaus County's Migrant Health Program (now called the Rural Health Program). Upon starting in 1967, as Assistant Health Officer to Dr. Robert Westphal, I was assigned the task of developing a health program for seasonal agricultural workers. After extensive study of the problem, the Health Department encouraged the Medical Society to seek a grant to provide health care to the farm workers.

The program was funded and was unique in providing a nurse at each of the housing centers. She provided health education, assistance in making appointments and getting to physician's offices, did minor physical screening and, in effect, served almost as a physician assistant. She was helped by a Spanish speaking aide recruited from the people being served. The two became well acquainted with the needs of the people and helped in every way to see that these needs were met in a comprehensive way.

Almost 16,000 visits were made to the 3 nurse's offices. About 3,000 were referred to private physicians—all outpatient services being paid by the program. Over 2,500 referrals were made to other agencies; Welfare, Family Planning, Public Health, Mental Health, Food Stamps and Hospital. Thus, over 10,000 services were performed by the nurse acting in an extended nurse role. The above figures were for the year 1972.

This has been an excellent program for the farm workers and their families. It has provided a broad scope of health services which have been coordinated with the Health Department. This has been done, I believe, at a minimum cost for the services rendered. Since farm workers are unable to pay for the majority of their medical care, it must be subsidized in some manner. The Federal Government seems the most appropriate agency to do this. I would make a strong plea to continue the funding of the Health Care Program for the seasonal agricultural farm workers.

Sincerely yours,
ROBERT W. WATSON, M.D.,
Health Officer.

MIGRANT ACTION PROGRAM,
Mason City, Iowa, January 9, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: The hope, that the Migrant Health Act brought in 1962 to the migrant and his family, *must not die!!* We strongly feel that you, who are "our voices," must see to the legislation extending this help.

We have taken a long step in the right direction—an on-going health program both to the migrant who remains in the stream and the one who settles out; but we have only *begun* to scratch the surface. Having given the migrant a glimpse of a better way of life through education and good health care, we can not stop now.

With automation reaching into Iowa more and more, we know machinery is definitely taking the migrant's place but as long as there are some areas where machinery can not take the place of human hands, there is a need for a migrant health program to give aid to the migrant. In the light of this, we need the continuing support of the Migrant Health Act. Only through this help can we see our objective of reaching and maintaining a more healthful standard of living for the migrant.

We truly are our "Brother's Keeper"—only through your support will this be possible.

Very truly yours,
BETTY CURTIS, R.N.,
Health Coordinator.

STATE OF MINNESOTA,
Minneapolis, January 3, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: We understand that unless the United States Congress approves legislation extending the Migrant Health Act there is danger of the Act being terminated June 30, 1973.

May we urge you to vote in favor of the extension and continuation of the *Migrant Health Act*. We believe that there is a crucial need among the migrant and the seasonal farmworkers to have their health needs cared for through programs that function under the Migrant Health Act, and therefore, it is an absolute necessity to *extend* the *Migrant Health Act*.

Yours truly,
D. S. FLEMING, M.D.,
Director, Division of Disease Prevention and Control.

STATE OF OHIO,
DEPARTMENT OF HEALTH,
Columbus, Ohio, January 5, 1973.

Hon. HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: A copy of the 1972 Annual Report for the Ohio Migrant Health Program is enclosed. While it is a lengthy report, it does document the extent of health care services provided to migrants for the $774,124 in Federal funds allocated to the State. Within the report you will find examples of the medical needs of migrant families. A very short summary is enclosed in the back of the report.

The health services have been made possible only through the Migrant Health Act which is due to end June 30, 1973. The Act has given access to comprehensive health care services to migrants.

Your support of legislation to continue the Act and at a higher level of funding is needed. It is essential to the well-being of migrants and supportive to a great number of health care providers who have become involved in the program over the years.

Sincerely,
T. A. GARDNER, M.D.,
Assistant Director of Health.

KLICKITAT-SKAMANIA COUNTIES COMMUNITY ACTION COMMITTEE,
Stevenson, Wash., January 25, 1973.

Hon. HARRISON A. WILLIAMS,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SIR: We urge you to use your influence to insure that the Committee on Migratory Labor continues to be a strong advocate for rural housing for the poor.

To carry out these objectives requires strong committee leadership and an adequate staff to handle administrative responsibilities.

We sincerely hope that the freezing of the subsidy programs is not an indication that housing for the poor is no longer a priority of this administration.

Thank you for your consideration.

Sincerely,
HENRY STEPHENS,
Executive Director.

MODESTO, CALIF.,
January 22, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

SIR: Recently I received a letter stating that the *Migrant Health Act* is in serious jeopardy unless legislation approves an extension of this act. As a nurse in the Patterson camp I feel that the services rendered to these people through our Rural Health Office are a vital part of their continuing health and education.

Nearly all of the health education received by the rural farm worker and migrant farm worker originates in our office. If this office were closed, the health of these people would be in danger due to their lack of knowledge in health areas, and lack of funds with which to seek other medical help. For example, a large number of people in the Patterson area are diabetic and concerned about their problem but don't have the education and understanding of what is involved or how to treat it.

For the fiscal year 71–72, in this County, the Stanislaus Rural Health Care Program saw 15,856 people, all of which were screened and referred to private medical doctors. Referrals to various community agencies such as Family Planning, Welfare, Public Health Clinics and Mental Health, totaled 2,635. Then, 10,400 were seen and terated by the R.N. in the Health Office.

For these reasons, I urge you to extend the *Migrant Health Act*.

Yours very truly,
MARILYN HOLLOWAY R.N., PHN.

JANUARY 11, 1973.

Senator HARRY F. BYRD, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SIR: I have been informed that the Migrant Health Act under the Department

of Health, Education and Welfare will terminate in June, 1973 unless extended by Congress. As health director for Accomack and Northampton Counties I ruge you to support legislation to continue and extend the Migrant Health Act.

For the past 9 years the Virginia State Department of Health has been the recipient of a grant under the above act, most of the funds being spent in Accomack and Northampton Counties for medical care of migrant and seasonal farm workers. The need is as great today as it was when the program began 9 years ago. In fact I can see no way to assure these hard working, low income, poorly educated, transient people of health care without federal funds for the following reasons:

1. a. Their incomes are not usually sufficient to pay for short term illnesses and they are not aware of the benefits of spending money on preventive medicine. b. Their incomes are never sufficient to pay for hospitalization or long term illnesses.

2. The communities in which they work seasonally are usually rural and many are economically depressed. Therefore I cannot foresee the local communities absorbing the bills for migrant medical care.

3. Since migrants seldom reside in one place long enough to be regarded as "residents", they belong only to the nation, not the locality where they happen to reside for a short period. Their health and welfare is the responsibility of the nation of consumers who enjoy the products of their labor.

I do forsee a change in the delivery of health care to migrants in this area. In November, 1972 the Virginia State Department of Health was awarded a $25,000 grant to conduct a feasibility study for a health care delivery system in Accomack and Northampton Counties. Any proposed system will include the 5,000 to 6,000 migratory laborers who work here each summer and funds will be needed to "buy into" the system adopted.

Since the numbers of migrant laborers is declining very slowly, I foresee the need for federal funds for their health care for many years and urge you again to extend the Migrant Health Act.

Yours very truly,

DELLE D. FEARS, M.D.,
Director.

BOARD OF CHURCH AND SOCIETY OF THE UNITED METHODIST CHURCH,
January 26, 1973.

Hon. HARRISON A. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: The General Conference of The United Methodist Church, meeting in Atlanta, Georgia in April, 1972 adopted the following resolution in regard to farm workers:

Calling for special attention is the situation of farm workers in the U.S.A. Traditionally they have been among the most poorly paid, housed, educated, and served by health, welfare and other social agencies. They have been systematically excluded from all, or nearly all, the benefits of social legislation. . . .

The United Methodist Church will continue to press for better educational opportunity, housing, and welfare services; more adequate minimum wages, and full coverage by all social legislation designed for the protection of (farm) workers.

I call this policy statement to your attention because it clearly speaks to the need for extending the Migrant Health Act which expires in June, 1973. If this Act is not renewed and adequately funded, health services needed by over one million farm workers will be terminated. This would obviously be unjust for these persons presently are among the poorest paid workers in the United States and cannot afford adequate private health care.

The Board of Church and Society of The United Methodist Church is opposed to allowing the expiration of the Migrant Health Act. We urge you to use your influence to strengthen and broaden health care for migrant workers before June, 1973.

Cordially yours,

LUTHER E. TYSON,
Director, Department of Economic Life.

SOUTHWEST MIGRANT ASSOCIATION,
San Antonio, Tex., December 29, 1972.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: In reviewing government supported programs dealing with needs of humans whose present socio-economic and health status is way below the normal status, we the board members of the Southwest Migrant Association (Migrant Health Project) wish to bring to your attention the work which our organization through your financing has provided.

The human needs of migrants cannot be over-emphasized. It is common knowledge to all our society that the migrant worker suffers deprivations which are alien to other citizens.

We take a look at people who have self-inflicted on themselves and their families the poverty and squalor in which they now live—for example the drug addict and the alcoholic, this does not mean that help should be withheld from these, but surely one needs to face facts regarding migrants whose plight has been the outcome of circumstances which they have not engendered. May we at this time enumerate the causative factors of their miserable plight

Number one factor is inadequate educational facilities which could have been remedied many years ago but were not.

Number two would be the facts of nongainful employment, a result of cause number one.

As number three we could mention inadequate housing, inadequate diets and cultural mores which because of ignorance have not been eradicted.

As time goes on and better educational facilities are provided and better health provisions and health education is given, the migrant should reach an adequate level of self-sustenance and therefore become assets to the national economy.

Even though at present the migrants hold a low Bio-Socio-Economic and Educational status, he is the one on whom farmers depend to supply the nutritional demands of our ever-growing and increasing society.

We at this project are rendering services which enable the migrant to keep healthy and maintain a certain amount of dignity which belongs to every human being which has been placed on the face of the earth.

Health needs for migrants and their families are crucial at this time and any other time. On the health of the migrant depends the nutritional health of our people. Therefore, we ask that our services remain until that time when these citizens obtain the education needed to guide them into other endeavors.

RAUL SALDIVAR,
(And 11 others).

SARASOTA COUNTY
HEALTH DEPARTMENT,
Sarasota, Fla., January 4, 1973.

Re Migrant Health Act.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: The Migrant Health Act has been the basis for medical programs in State and County Health Departments for years. It has brought services directly to the migrants who have not been able to enter the mainstream of private medicine. It has also served as an entry point for many migrants into this mainstream. At this point in time, to discontinue the Migrant Health Act would destroy many effective health programs that rely on migrant project funds for part or all of their support.

The Migrants as a group need special attention from public providers of health services because of their unique social and economic problems. As they travel with the crops and seasons, special provisions for their health care must be given by an understanding and concerned group of health workers. The public health team concept best fits their varied needs. Even if they were provided with the necessary funds to buy health services they would have difficulty getting into doctors offices, clinics, etc.

May I respectfully urge you to support the extension of the Migrant Health Act beyond June 1973 for at least another three years or until an equally effective plan for health services can be implemented to provide for the health needs of seasonal agricultural workers.

Sincerely,

JOHN F. MCGARRY, M.D.,
County Health Director.

JANUARY 2, 1972.

The Utah Migrant Council has been informed that the Migrant Health Act under the Department of Health, Education, and Welfare may be terminated in June 1973.

Our health project depends heavily on this financial assistance. Although we try to work closely with available medical facilities and programs within the state of Utah, we have found that due to discriminatory practices from some health providers and permanent residency requirements, many of our people cannot receive adequate medical care. These problems were beginning to ease with the assistance our health project provided.

Our program assists both the local medical providers and the migrants. The financial aid from this grant not only affords primary health care for our people, but enable the migrant council to enlighten the local communities about the migrant health needs.

I feel that if this Migrant Health Act is not renewed by the United States Congress in June, a grave injustice shall be dealt to all of the migrants throughout the states.

Sincerely,

BALDEMAR VEDIA,
President, Utah Migrant Council Board.

JANUARY 3, 1972.

I'm writing this letter to elicit your support for the extension and continuation of the Migrant Health Act under the Department of Health, Education, and Welfare. Also, I would like to point out the crucial medical needs of the migrants and seasonal farmworkers in Utah.

First of all, the Utah Migrant Council Health Project funded under the Migrant Health Act provides the only form of medical services to migrants and seasonal farmworkers in Utah. Due to the residency requirements in this state, migrants cannot receive medical benefits under the Title XIX Program (Medicaid).

Secondly, migrants and seasonal farmworkers have experienced the general problems of low-income, rural Americans as well as the special ethnic, racial and language difficulties. The culture of the migrant is distinctly different from the general Utah society and presents some problems. For example, migrants retain many of their own folk medicine beliefs leading to mistrust, ignorance and misunderstanding of scientific concepts of health and disease. These ideas hamper the effective use of prescription medicines as well as delay the recognition of some disease symptoms. Additionally, there is among the migrant population an inadequate understanding of health maintenance activities such as pre-natal care, good nutrition, family planning, immunizations and routine surveillance for disease.

Migrants have for a long time suffered many injustices, but to take away the rights of medical services is the biggest injustice this nation could do. Migrant workers suffer from bad living conditions, lack of education and training, poor wages, and discrimination. There is also a reluctancy on the part of medical providers to serve migrants. This nation has many problems of its own, one of which is the migrant farmworker.

The Migrant Health Act has been a limited program but it has provided limited medical care to migrants and has provided the awareness of migrant problems to the local level and has been a mechanism to bring about changes in the health delivery system to better serve the low-income specifically Indian/Chicano health needs. To do away with the program would leave the migrant and seasonal farmworkers without health services which are very much needed. I would like to suggest that the Migrant Health Act's financing be expanded rather than discontinued. This last year's appropriations are unrealistic and inadequate in terms of needs and number of migrants.

A strong voice from you in this matter would greatly be appreciated.

Vaya con Dios,

GABE VEGA,
Director, Utah Migrant Health Project.

PLAINVIEW-HALE COUNTY
HEALTH DEPARTMENT,
Plainview, Tex., January 3, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: Although funds have been extremely limited, Migrant Health Projects throughout this nation have contributed significantly to the health and well being of the migrant and seasonal agricultural farmworkers. Until a more efficient system of health care delivery to certain target populations is developed, this present means of delivering health care should be retained.

We urge support in extending the Migrant Health Act until such time that our nation can more effectively meet the needs of the medically indigent.

Your support in this matter is greatly appreciated.

Respectfully yours,

GERALD W. WAGNER, M.D.,
Project Director, Plainview-Hale County Migrant Health Project.

COLUMBUS, IND.,
January 4, 1973.

DEAR SIR: We deal on a day to day basis with the widespread, multi-faceted problems of migrant farmworkers. The lack of medical services and facilities available to migrants is indeed a crucial problem. If the Migrant Health Act is terminated migrants will have no means to receive medical services. This cannot be allowed to happen. Migrants are forced to suffer such incredible injustices already; please, do not allow the termination of medical services to be added to the ever ending list of injustices.

We are confident that if one investigates the dire need for medical services migrants have he will wholeheartedly support the continuation of the Migrant Health Act.

We strongly urge you to support the passage of this act and to persuade your colleagues, also, to support this bill. It is imperative that these services remain an active force for migrants.

Sincerely,

BENITO LOPEZ,
Director.
DONICIO ALEMAN,
Coordinator.
FRANCISCO CORTEZ,
Outreach worker.
LARRY PENA,
Outreach worker.
DEBBIE MELLOAN,
Secretary.

PALM BEACH COUNTY
HEALTH DEPARTMENT,
West Palm Beach, Fla., January 2, 1973.

The Ad Hoc Committee To Save the Migrant Health Act, Washington, D.C.

DEAR SIRS: No group in our Nation is more underprivileged than agricultural migrants. Their many health problems result from poverty, poor housing and sanitation, inadequate education, lack of resources for medical care and migratory living patterns. Language and cultural barriers, lack of transportation and related factors interfere with obtaining health services.

With passage of the Migrant Health Act, limited funds became available to develop services specifically designed to meet health needs of agricultural migrants and seasonal farm workers. Despite the fact that appropriations have permitted services to be initiated in only a portion of the farming areas, and have been grossly inadequate in comparison with the needs, a great deal has been accomplished, with a potential for much more if support can be continued and increased.

Experience has demonstrated that other health programs will not meet the peculiar and specific needs of these most necessary and worthy people. Relatively few have qualified for Medicare and Medicaid. General services which are not adapted to working and living patterns, mobility, language and cultural obstacles will not be effective.

At this critical time, when there is hope that our long standing commitment can be met by building on past experience and by developing new approaches, we should not withdraw support, but instead we should increase it.

We need the Migrant Health Act. Please give your strong support toward its continuation, with increased funding.

Sincerely yours,

C. L. BRUMBACK, M.D.

GEISINGER MEDICAL CENTER,
January 19, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: The Geisinger Medical Center as the major provider of medical care to migrant workers in the Commonwealth of Pennsylvania fully supports an extension of the Migrant Health Act.

Each year the Geisinger Medical Center in co-operation with the Pennsylvania Department of Health provides medical care to a migrant population in excess of 2,000. This year in addition to providing acute care, a portion of the migrant workers were voluntarily enrolled in the Geisinger Health Plan (an operational Health Maintenance Organization). The latter, a developmental program initiated by the Institute for Medical Education and Research emphasized comprehensive medical evaluation in addition to providing acute care to the enrollees.

Through this experience the Geisinger Medical Center recognizes the need for migrant health care. Health care for this underserved population is at best minimal with very little provisions for follow up or continuing care. The problem and burden of providing health care to this unique population is too great a responsibility for local agencies and therefore requires support at the national level.

Failure to extend support of the Migrant Health Act will retard and eliminate the concept of health care in the minds of the migrant population as well as denying accessibility to basic medical treatment.

Sincerely,

ELLSWORTH R. BROWNELLER, M.D.,
Director of Program Planning.

JANUARY 18, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR: The passage of the Migrant Health Act in 1962 and the extensions granted this service to migrant farmworker families was one of the rare expressions of concern by the United States Congress for over one million persons who earn their living by following the harvest of crops in this vast country. Presently, and in years passed, funds appropriated to Migrant Health have provided for much needed health services for many migrant farmworkers families. This includes medical services that may have never been accessible otherwise.

Without these funds for Migrant Health, perhaps the "discovery" of the abominable gaps existant in the distribution of health services for Americans would have been delayed for years. The federal government, through the efforts of programs such as this, has led the efforts to bring justice to the miserable lives of thousands of persons whose destiny rides precariously with the fortunes of the crops.

The federal government has provided massive financial relief to other elements of the agricultural community for scores of years, but ironically, little interest has been shown by Congress for the poor and near poor wage earner or the farmworker who needs help the most.

In the face of "wheat scandals" in the Department of Agriculture and record profits in agribusiness, while thousands of farmworkers scratch out a "living" on a minimum wage, it is hard to believe that Congress would even consider reducing the appropriation to Migrant Health.

I personally urge those friends of the migrant and seasonal farmworker such as yourself, to fight for their interests in Congress and to assure adequate appropriations for the vitally needed medical services.

Sincerely yours,

ROBERT GOMEZ,
MAX D. SMITH.

MIGRANT AND RURAL POOR CLINIC,
Ruskin, Fla., January 22, 1973.

Ad Hoc Committee to Save the Migrant Health Act, Washington, D.C.

DEAR SIRS: We are some of the people who have benefited from health services in the Hillsborough County Migrant & Rural Poor Health Project. These federal funds for this health care came only last year, after several years of attempting to get the funds.

We feel our health services are now good, and want them to continue. Good health makes us more capable of raising and harvesting the fruits and vegetables that you eat daily. Our incomes, and lack of facilities prevent us from getting private doctor care.

Please do all you can to keep the funding of the Migrant Health Services coming. Thank you for helping us in this matter.

We are sending copies of this letter to:

Honorable Paul G. Rogers, Senator Edward M. Kennedy, Senator Adlai E. Stevenson III, Honorable H. O. Staggers, Mr. Billy Sandlin, Honorable John C. Culver, Senator Harold E. Hughes, Senator Jack Miller, Senator Harrison A. Williams, Senator Jacob Javits, Senator Richard S. Schweiker, Honorable James O'Hara, Honorable Sam M. Gibbons, Senator Edw. J. Gurney, and Senator Lawton Chiles.

Respectfully,

HARRY WALLER
(And 16 others).

The hour was scarcely nine when I pulled into the labor camp. All was quiet. The crowds had been in the fields some three hours on hands and knees collecting tomatoes and/or cutting cabbages. All was quiet except for a weeping mother. The tearful distress arose from the good woman's inability to secure aid for her seven-year-old daughter who had "something" in her ear. Since the child had been sent to school, I asked the mother what she thought the "something" was. Without hesitation she answered, "A cockroach". From previous experiences she

knew the local physician would not admit her to his office (much less to treatment) unless she deposited $15.00 on his desk. This amount she did not have; hence, to her, the futility of the situation. I reassured the lady by telling her my status as a professional nurse readily would enable me to obtain medical assistance. How naive, how wrong I was! I phoned two doctors in the vicinity, explained the circumstances and asked that they examine the patient. Both flatly refused. Why? The child was a migrant. Clothed in this stigma, she was not considered a part of the human race; therefore not entitled to the care and solicitude normally meted out to the remainder of mankind.

In 1962 the *Migrant Health Act* initially was approved. Since that time, through family health service clinics, it has successfully removed many "cockroaches" from the ears and bodies of numerous seasonal agricultural workers and their families. Now, I understand, Congress is about to allow this *Act*, in many rural areas the *sole* source of medical assistance to the migrant, to expire. According to HEW approximately three million seasonal farmworkers are eligible for health services under this *Act*. Some of these individuals, undoubtedly, are your constituents. Are you willing to collaborate in a decision that will have catastrophic effects on them, physically, mentally and emotionally? Or, as their representative in Legislature—one who not only sees them as suppliers of food for your table but also as sons of a common Father, therefore your brothers and sisters—are you determined to go "to bat" for them and their vital needs? Somehow I feel you will respond to the second question with a vigorous, sincere YES and do your best to save the *Migrant Health Act*.

Sincerely yours,

Sister JOSEPH BEATRICE EYL,
Director, West Orange County Migrant Health Project, Apopka, Fla.

EASTSIDE HEALTH CENTER,
Greeley, Colo., January 17, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: As staff physician of a clinic set up with funds from the Migrant Health Division of HEW, I am writing in support of extension of the Migrant Health Act.

Migrant and seasonal farm workers are at this time indispensable to the agricultural economy of this country. Their living standards, health conditions and educational opportunities are far beneath those of the average American citizen and are a great part of the reason why the maternal and infant mortality rates of this country fall so far behind those of our European neighbors. It is our responsibility as a nation to help these citizens obtain the high standards seen throughout most of the United States. The Migrant Health Act is doing this in several ways. First, it is helping to assure people who are unable to pay the extremely high costs of medical care some medical assistance and by doing this, is helping the country as a whole to obtain better maternal and infant mortality rates. Second, it is helping children receive an education. One of the major reasons the migrant children are uneducated is because they are too sick due to malnutrition, chronic ear infections causing deafness, poor eyesight, and abscessed, painful teeth to be able to adequately concentrate in school and keep up with their more healthy, well-nourished, middle class American classmates. Thus, they drop out of school, are uneducated and must continue in the poverty cycle. Good medical care can help alleviate these illnesses. Third, it is helping educate families as to how to use medical care, how to purchase and prepare nutritional foods, so as to help prevent the above devastating diseases, how to use family planning services, so as to help the population crisis, for many of these families have numerous children only because they are unaware of current contraceptive methods or fear them due to lack of proper explanation. In general, the services being provided are helping to make these uneducated, poverty-ridden people better and happier American citizens, and in turn, able to give the same aid to others.

A major complaint throughout the country concerns the huge welfare roles. Were more money put into medical programs, such as the Migrant Health Act, welfare roles could be cut in large numbers. Many farm workers, such as are served in the clinic, are able to maintain themselves on their incomes given medical care for a small fee without welfare assistance. If the Migrant Health Act is cut, the reverse will be the case, for many of the patients currently receiving care in the clinic will need welfare assistance to pay the medical bills that will ensue.

It is dangerous for the security of the country to remove a program such as the Migrant Health Act. People have become accustomed to obtaining accessible and acceptable medical care at a price they can afford. If they are suddenly denied this privilege, they will not understand why. This is the perfect point for revolutionaries to dwell on and initiate riots, etc., as have occurred too frequently in the past few years.

As a physician intimately involved with Migrant Health Act funds, I urge you to please consider the invaluable services provided with these funds, not only to the citizens for whom they are providing care, but to the United States as a whole, and I urge you to please reinstate the Migrant Health Act.

Thank you.

Sincerely,

LESLIE A. LEPPLA, M.D.

PATIENTS SEEN, JUNE THROUGH NOVEMBER 1972

Date	Migrants, new	Migrants, repeat	Local, new	Local repeat	Total
June 1972	275	239	59	218	791
July 1972	144	233	58	293	727
August 1972	156	369	85	333	943
September 1972	84	221	94	419	818
October 1972	28	142	71	391	632
November 1972	14	102	73	380	569
Total	701	1,306	440	2,033	4,480

JANUARY 24, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: In view of the crucial medical needs of the migrant and seasonal farmworkers, I urge you to support the extension of the Migrant Health Act beyond the June, 1973 termination point.

As an elected leader in this "land of plenty," you must realize that when the people directly affected by the termination of this act, the migrants and seasonal farmworkers ask the magic question, ". . . what can I do for myself," the answer is a rather distressing one. President Nixon's unfortunate juxtaposition of the late President John F. Kennedy's statement does not excuse you from your duty to all the people, even those who cannot help themselves, as I am certain you are aware.

I am confident that you will act in a moral and responsible manner in this regard, as the record shows you have in the past. I shall continue to pray for you in your execution of the awesome responsibilities of your office.

Sincerely yours,

Sister ANNE DEVANEY, R.S.M.,
Assistant for Program Development.

HEBBRONVILLE, TEX.,
January 8, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: It has come to our attention that the Migrant Health Act is about to be discontinued and this letter is to urge you to please propose an extension of said act.

It is direly needed in our county due to the fact that it is composed of about 80 per cent Mexican-American and a great number of them are migrant workers.

If it could only be shown to Congress and the Senate how much good and beneficial our local Migrant Health Clinics has been to our people. I am sure they would think twice before cutting off these benefits. Most of the migrants by the time they return home are very limited in their finances, and if there are no means for their childrens' health care we know that their children will be neglected in this respect.

We urge and plead with you to use all your influence in the extension of this Migrant Health Act which has been so merciful to many of the ethnic minority groups.

Respectfully,

H. T. MARTINEZ,
County Judge.

HEBBRONVILLE, TEX.,
January 8, 1973.

Ad Hoc Committee To Save the Migrant Health Act, Washington, D.C.

SIRS: This writing is being directed to the Honorable Committee To Save The Migrant Health Act in behalf of 144 families which included 714 persons in the Jim Hogg County, Texas, community.

Before the advent of the Migrant Health Project to Hebbronville and the Jim Hogg County area, many of our people were in dire need of medical services and lacked in knowledge of health practices and sanitation. Since June 19, 1967, according to reports compiled by staff members of the clinic, much improvement has been shown in health conditions among the recipients.

Because of the favorable results that are evident since the program began, it is felt that a continuation of the services is essential. Further, it is felt that not to continue the services will cause a setback in health conditions, health practices, sanitation and nutritional practices among the poor.

It is hereby recommended to the Honorable Committee by the undersigned that an affirmative recommendation for the continuation of these services be made to the proper governmental bodies.

Respectfully submitted,

H. T. MARTINEZ,
Chairman.
HORACIO RAMIREZ,
JULIETA REYNAGA,
LUDIVINA ALMARAZ,
ADELINA GONZALEZ,
MARTA RAMIREZ,
ANTONIO GUERRER,
JOE BARRERA,
E. G. NAVA.

JANUARY 12, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR MR. WILLIAMS: I would like to enlist your help in obtaining funds for Delmo Migrant Health Project, Lilbourn, Missouri. It has been brought to my attention that there is opposition to this project in the Congress.

My experience with this agency as a caseworker has been excellent. Some family members are in need of medical care and not eligible for public assistance. With the help of Delmo Health, many of the people I work with have received dental work, physical therapy, and a vascetomy which they would not have received otherwise. Many of our peo-

ple are farm migrants with many health needs and without an agency such as Delmo Health to cooperate with us, these people would not have their needs met as adequately.

I and other caseworkers would appreciate your help and support in voting for the continuation of the Delmo Migrant Health Project.

Sincerely yours,

Mrs. MARY COX,
Caseworker, Stoddard County Welfare Office.

CHARLESTON COUNTY
HEALTH DEPARTMENT,
Charleston, S.C., January 9, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: The Migrant Health Act requires congressional approval for extension beyond June 30, 1973. This legislature is essential to the well-being of the "nomad segment" of our population.

The migrant is willing to work to maintain his family and in doing so insures the availability of vegetables and food products to the remainder of our population. It is in the interest of our country to maintain this population in the highest possible degree of health.

The Migrant Health Act under the Department of Health, Education and Welfare, by grants to health organizations along the migratory path of the migrants, does provide needed health care. The communities the migrants visit while following the harvest already have a full financial health care load in providing such service to their own year-around residents. It is, therefore, neither practicable nor financially feasible to take on an added responsibility of two or three thousand migrants for a period of several months each year. Such additional service must be funded from outside sources. The Migrant Health Act has most ably been able to provide this added care.

I strongly urge your consideration and support for the continuation of the Migrant Health Act.

Sincerely yours,

CECIL F. JACOBS, M.D., M.P.H.,
Director.

TEXAS RURAL LEGAL AID, INC.,
Alice, Tex., January 5, 1973.

Re Migrant Health Act.

Hon. KIKA DE LA GARZA,
Rayburn Office Building,
Washington, D.C.

DEAR CONGRESSMAN DE LA GARZA: I am writing to you to express my hope that you will support legislation extending the Migrant Health Act, and to report to you the observations of this office concerning the usefulness of the facilities established pursuant to that Act here in Alice. By copy of this letter, I am informing other interested members of the Senate and the Department of Health, Education and Welfare of our interest in this legislation.

As you know, health care has been a critical problem for many poor families of South Texas. The situation has been alleviated somewhat by the institution of the Medicaid Program through the Texas Department of Public Welfare. However, the vast majority of this assistance goes to mothers and their dependent children in situations where the family unit has been broken by divorce, separation or abandonment. This office has represented numerous claimant's under the State Welfare and the Social Security Programs in an attempt to establish disability claims where the family remains together and the father has disabling injuries. These efforts have not always been successful, and the fact remains that health care needs of families who stay together are often not met. This is especially true for Migrant families since they tend to work together as a family unit.

The Migrant Health Clinic operated here in Alice has made some steps towards alleviating the health care problems of such Migrant families. While their services are woefully inadequate, I am sure that the situation will worsen if this clinic is forced to shut down. The people at the clinic tell me that they will have no choice but to shut down if the Migrant Health Act is terminated this June, as the present legislation provides for.

Thanking you in advance for your support of this important legislation, I remain,

Sincerely yours,

ROB KERN.

UNIVERSITY OF UTAH MEDICAL CENTER,
Salt Lake City, Utah, January 10, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I am writing to express my support for the legislation to extend the Migrant Health Act. Under the leadership of the health project of the Utah Migrant Council, migrant health services to migrants and seasonal agricultural farm workers have just begun to be delivered on anything approaching a meaningful level. These people represent one of our most pressing dilemmas since they combine medical need, indigency, cultural patterns which may be alien to contemporary health practices, and a high degree of geographic mobility. To date our efforts to help them have been inadequate, but surely the answer must lie in providing more effective assistance, not in cutting it off. I hope you will support legislation to extend the Migrant Health Act. The migrants certainly need our help.

Thank you.

Sincerely,

ROBERT L. KANE, M.D.,
Assistant Professor.

STANISLAUS MEDICAL SOCIETY,
Modesto, Calif., January 10, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: We recently received a letter stating that the Migrant Health Act is in serious jeopardy with a possible termination of Medical Services to the seasonal agricultural worker and his family.

We feel this would be a disaster for Stanislaus County. Stanislaus County is located in the San Joaquin Valley—in the great state of California. At the peak of the harvest season during the 1971–72 year, 21,630 people were engaged in seasonal agricultural work. This included 14,490 migrants.

In Stanislaus County we have three health service clinics that are open on a year-round basis in the areas of Empire, Patterson, and Westley. These health service clinics are staffed by a full time Registered Nurse and a bilingual Health Aide in each office, with the exception of Westley which has two Health Aides. Additional summer staff is hired on a part time basis for the areas of Ceres, Hughson, and Riverbank. During the 1971–72 season a total of 15,856 clients were seen and either treated or referred. A total of 2,769 were referred to physicians. Another 2,635 were referred to various agencies such as Family Planning, Welfare, Public Health Clinics, Mental Health, out-patient hospital clinics, etc. This means that approximately 10,400 were seen and given minor treatment by the nurse acting in the extended nurse role.

Please give this matter your most serious consideration. We will appreciate anything you can do to help us in health care of the seasonal agricultural worker and his family.

Sincerely,

ANN ADAMS,
Nursing Director, Rural Health Care Program.

MIGRANT FAMILY HEALTH SERVICE,
Fremont, Ohio, January 12, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLAMS: We strongly urge the continuation of the Migrant Health Act.

Because of the high cost of medical care, the shortage of doctors and the low income of these people, no medical care will be available for them if the services are terminated.

The children will suffer.

Sincerely,

ANNA ROSE MCDERMUTT R.N.,
(And 8 others).

NEW YORK, N.Y.,
January 29, 1973.

Hon. HARRISON A. WILLIAMS,
Old Senate Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I am very much disturbed at the news that the Migrant Health Act will be terminated on June 20, 1973. I have worked with the Migrant Ministry on the staff of the National Council of Churches for eleven years and have watched the Migrant Health Act in action during this period. My observation has led me to believe that there is no other single program which has been as effective in relieving the pain and suffering of the most deprived segment of our society, the migrant and seasonal farm workers.

I am aware that the funds appropriated have been inadequate inasmuch as they have made it possible to reach only about 10% of the farmworker population, but do you honestly believe that, if the funds are assigned to the states through revenue sharing, the record would be any better? On the contrary, we know that state governments have consistently failed to acknowledge the right of migrant farmworkers to claim residency *anywhere*, either home base or "user" areas. What, then, is to be the fate of farm workers if Federal funds for health services are to be cut off?

It seems to me that of all the poor people who are being denied assistance through the cutting off of social legislation by our present administration, farm workers are the most vulnerable. We are returning to the dark ages of the 1920's!

Your support—and initiation—of farm worker legislation is well known and much appreciated by all of us who work in the Migrant Ministry. I'm sure that a request for your support on this issue is unnecessary but I want you to know that we are depending on you to do all in your power (which is considerable) to keep the Migrant Health Act alive.

Thank you, on behalf of farmworkers everywhere and the Migrant Ministry for all you have done in the past and we look forward to your continued support.

Sincerely yours,

Mrs. JEAN L. POWERS,
Director of Migrant Services.

HOUSING ASSISTANCE COUNCIL, INC.,
Washington, D.C., January 29, 1973.

Hon. HARRISON A. WILLIAMS, JR.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: Our organization assists groups across the country attempting to develop housing for the rural poor.

Needless to say, the situation is tragic enough with the total freeze by the Farmers Home Administration on all programs that contain any subsidy and the virtually total freeze by the Department of Housing and Urban Development on its subsidized programs. Even before the freezes, impoundment of a portion of the minuscule appropriation for the farm labor housing program limited its coverage.

Now, on top of everything, it has come to our attention that a move is under foot

to eliminate the Subcommittee on Migratory Labor of the Senate Labor and Public Welfare Committee. Such action, we believe, in the present times of distress in the housing programs for rural poor persons would be unfortunate. There is a grave danger currently that all governmental activities on behalf of the poor, notably the rural poor, are to be screened out. It would seem that never before was there as much need as there is now for the Senate Subcommittee on Migratory Labor, particularly when it is comprised of such respected and concerned voices as those of Senators Mondale and Stevenson, and, notably, yours.

We would hope that you would not allow this voice for the poorest of the rural poor to be stilled.

Respectfully yours,

GORDON CAVANAUGH,
Executive Director.

LUBBOCK, TEX.,
January 26, 1973.

Senator HARRISON A. WILLIAMS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: It has been brought to my attention that the Migrant Health Act is in serious jeopardy; that unless the United States Congress approves an extension, medical services to migrants and seasonal farmworkers will be terminated in June of 1973.

Being involved with the migrant population, it is my belief that this is a very serious action, as these are the people that are always left out. Medical services, as you know, are scarce since there are all kinds of residency requirements. For this reason, there are great numbers of medical problems among these people.

I am, therefore, asking you to do everything in your power to avoid such a drastic and unthinkable possibility.

Thanking you in this matter, I am,

Sincerely,

Mrs. MAGGIE TREJO,
Site Coordinator.

S. 740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 310 of the Public Health Service Act is amended by inserting after "June 30, 1973," the following: "not to exceed $60,000,000 for the fiscal year ending June 30, 1974, $105,000,000 for the fiscal year ending June 30, 1975, $120,000,000 for the fiscal year ending June 30, 1976, and $135,000,000 for the fiscal year ending June 30, 1977."

SEC. 2. Section 310 of the Public Health Service Act is further amended by striking "and" immediately before the clause designation and by adding at the end of such subat the end of such clause the following: "and (iii) premiums for a prepaid health care plan eligible for Federal assistance where such clinics or special projects so request. All such clinics, special projects, and prepaid health care plans shall provide outreach and follow-up services;".

SEC. 3. Section 310 of the Public Health Service Act is further amended by inserting "(a)" immediately after the section designation and by adding at the end of such subsection the following new subsection:

"(b) There are hereby authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $35,000,000 for the fiscal year ending June 30, 1975, $40,000,000 for the fiscal year ending June 30, 1976, and $45,000,000 for the fiscal year ending June 30, 1977, to enable the Secretary to assist in the provision of necessary hospital care to domestic agricultural migratory workers and their families."

SEC. 4. Section 310 of the Public Health Service Act is further amended by adding at the end of new subsection (b) the following new subsection:

"(c) In making grants under this section the Secretary shall give priority to those applicants whose policy-making body is composed of a majority of persons who are consumers of its services, where competing applicants appear to the Secretary of Health, Education and Welfare to be equally qualified."

MIGRANT HEALTH

Mr. KENNEDY. Mr. President, I am please to join today with the distinguished Senator from New Jersey (Mr. WILLIAMS) in proposing legislation to extend the Migrant Health Act for 4 years and to expand the effort to provide adequate health care to the Nation's migrant workers.

Last year, I was pleased to introduce a similar measure which was approved unanimously by the Senate. Unfortunately, the House did not act on this bill.

Senator WILLIAMS was the original author of this program as chairman of the Senate Migratory Labor Subcommittee and I am pleased to join with him again this year in seeking to see that the Federal Government meets its responsibilities to the Nation's migrant workers.

This measure steps up quite significantly the amount of resources available by providing authorizations of $60 million for fiscal year 1974, $105 million for 1975, $120 million for 1976 and $135 million for 1977. That will actually double the authorization for next year over this year, but it is a needed program, and the testimony we had before our committee was that if we were to try to provide minimum standards for health care for the migrants, it would cost some $600 million; so $60 million is a bare minimum.

This measure also includes a separate authorization to help defer the cost of hospital services to migrant workers. That is an extremely important provision, because we have seen time and time again, during the course of our health hearings, where hospitals today are operating on such a thin line between bankruptcy and survival that they have refused to provide migrants with health care, because they cannot afford it. This measure would provide resources for migrant hospitalization. It would authorize $10 million in fiscal year 1973, $25 million for fiscal year 1974, $35 million for 1975, $40 million for 1976 and $45 million for 1977.

Mr. President, for too long, the health needs of the approximately 1 million migrant agricultural workers in the Nation have remained unmet. Low economic and educational levels, forced mobility, and the lack of State resident status, as well as cultural and language barriers all serve to deny access to any health care service.

Government reports and private studies have convincingly documented the poor health of migrant farmworkers. For example, the infant mortality for migrants is 25 percent higher than the national average. Mortality rates for tuberculosis and other infectious diseases are 2½ times higher than the national rate. Hospitalization for accidents is 50 percent higher than the national rate. The average life expectancy for the migrant is under 60; for the average U.S. citizen, it is over 70.

Witnesses before the joint hearings held by the Senate Subcommittees on Health and Migratory Labor last year all concurred without exception, that there continues to be a need for a distinct, identifiable program to meet the special health needs of the migrant farmworker and his family. Although there are almost 900 counties in 46 States which have substantial numbers of migrant and seasonal farmworkers, at the current time, the Department of Health, Education, and Welfare finances projects in only 130 counties.

Perhaps no single group in our Nation continues to be as exploited and unserved as the agricultural migrant worker who harvests the food we consume daily.

The three major amendments proposed within the bill are a small effort to improve the health care of these citizens. They were included for the following reasons:

First, the bill for the first time specifically authorizes sums for hospitalization. Although the act has authorized the cost of hospitalization since 1965, the program has been unable to stretch the appropriations to cover this vital service. The witnesses have all testified that despite medicare and medicaid, less than 7 percent of the migrant and seasonal farmworkers and their families receive hospital benefits.

Second, we have included a provision to permit projects which so request, to use funds for the payment of premiums for health services, where adequate outreach and follow-up services are provided.

This provision looks ahead to the day when it might be possible to enroll more and more migrant and seasonal farmworkers in an improved health care delivery system which serves the entire rural population.

Third, the act also provides for the Secretary to give priority to funding over those projects whose policymaking body is composed of 51 percent or more from the population being served.

There are two basic elements which justify this bill:

First, the overwhelming demonstration by consumer-based projects that they in fact are more effective in providing a higher quality and more responsive health care service system; and second, the commitment Congress and all Americans have for local community control over those services which are designed to serve the people.

I intend as chairman of the Health Subcommittee to see that this measure is speedily presented to the Senate again for approval. For I believe it is in the interest of the Nation for this program to be continued.

And I have received more than 50 letters from individuals, health officials, and university medical experts urging that this program be extended. I ask unanimous consent that some of these letters appear in the RECORD at this point.

There being no objection, the letters

were ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF WISCONSIN,
January 16, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Offic Building,
Washington, D.C.

DEAR SENATOR KENNEDY: This letter is to urge that you support extension of the Migrant Health Act beyond June of 1973. This act provides funds for family health services as well as for special projects to improve health services for agricultural migratory laborers and their families. I cannot emphasize enough the pressing need for health services specifically tailored to the needs of migrant workers and their families.

This important part of our agricultural work force faces unique conditions which predispose them to unique health risks:

Frequent exposure to noxious pesticides;

In some camps, substandard housing and sanitation facilities;

Serious discontinuity in health services and in personal health records;

Special risks in traveling;

Occupational hazards incurred where industrial safety standards are difficult to enforce;

Continuous exposure to changeable weather conditions;

Lack of day-care facilities for children;

Lack of health education in their native language;

This list covers but a few of the unusual risk factors for health of migrants.

Perhaps most serious of these problems is that migratory agricultural laborers have little control over their own health and sanitation circumstances. Health problems are compounded by the fact that it is difficult or impossible for counties and states to provide special health programs for migratory populations at the cost of additional tax burdens to their own rural residents. The absense of an area with legal jurisdiction and the lack of representation for migratory agricultural laborers requires that federal legislation, in particular the Migrant Health Act, provide funds for special health programs. Without the continuation of funds provided by this act it will be extremely difficult to distribute fairly the cost of even minimal health care for these citizens.

In summary, I urge you to support legislation to refund Public Law 87-692, the Migrant Health Act. If you are already a supporter of this act I encourage your efforts. It is vital that medical services for migrant and seasonal farmworkers be continued and expanded.

Sincerely,

JOHN H. RENNER, M.D.,
Director, Family Practice Program.

WOOD COUNTY,
DEPARTMENT OF HEALTH,
Bowling Green, Ohio, January 18, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: The purpose of this letter is to react to the news that the Migrant Health Act is in jeopardy. We of this Department regard this as a vital program, essential not only to the health of migrant farm workers, but also to safeguard the health of Wood County residents.

We recognize that providing a segregated program for this occupational group is not the ideal way to extend medical services to them. Until a more general service is available, however, such a national health insurance program, it would be a serious mistake to discontinue this program.

In Wood County much work and dedication has gone into building an aggressive program that is effectively serving both the curative and preventive health needs of migrant families—services that they would not otherwise receive.

The physicians of Wood County are generous in extending their services to medically indigent persons, but we have a shortage of physicians, to the extent that many of them are unable to accept new patients. Furthermore, the care that non-welfare indigent patients get is usually "crisis" care. Seldom does such a patient and his family receive sustained preventive health maintenance care.

And medical indigency is not the only problem faced by migrant families. There are also language barriers, cultural lags and lack of knowledge of how best to initiate entry into the medical care system of a strange community.

Another difficulty faced by migrant families is the requirement of our Welfare Department that eligibility for public assistance be determined on the basis of current earnings, with no provision for averaging. For migrants, whose incomes are subject to wide swings, this causes a hardship because private medical institutions *do* consider average income when evaluating a family's ability to pay for services.

Finally, there can be no assurance that diseases in a group of people living in our county will be confined to that group. For example, last summer an epidemic of dysentery broke out among our migrants. Since we were working closely with these people we detected the disease quickly and took remedial steps to prevent its spread. Without our special interest in this high-risk group the epidemic might have become more extensive and involved permanent residents of the county.

In view of these considerations we urge that the Migrant Health Act be continued.

Sincerely,

GLENN S. USHER, M.D., M.P.H.
Commissioner.

CLINICA DE SALUBRIDAD
DE CAMPESINOS,
Brawley, Calif., January 19, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: The purpose of this letter is to support the Migrant Health Act.

I have worked in the above named rural clinic for migrant farm workers for nearly three years as of this date.

The physicians in Brawley serve a population of about 30,000 people in the northern half of Imperial County. Remaining in private practice in the town of Brawley are four full time GP's, one half time GP (who will soon move to the coast of California) and a half time general surgeon. At the Clinica, we now have four full time salaried physicians, and are confident we could attract more if our funding allowed. I think it is rather obvious that cessation of funding would be a tremendous problem for this community, insofar as medical care availability is concerned (if one assumes that these four physicians will leave this area since none of the four of us are interested in private practice at this time).

From what I read, it seems that most government sources also believe that some government intervention is necessary, if the problem of inequitable distribution of physicians in rural vs. urban areas is to be approached. Compulsory service in rural areas is obviously one way to approach it. My own feeling is that another way, perhaps even more important, is to continue to build and support health centers such as the Clinica de Salubridad in Brawley. We have an excellent team, performing in outstanding fashion, and other small communities should benefit from similar programs.

Please do your best to keep the Migrant Health Act active.

Yours truly,

ROBERT F. THOMPSON, M.D.,
The Ad Hoc Committee to Save the Migrant Health Act.

UNIVERSITY OF UTAH MEDICAL CENTER,
Salt Lake City, Utah, January 10, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to express my support for the legislation to extend the Migrant Health Act. Under the leadership of the health project of the Utah Migrant Council, migrant health services to migrants and seasonal agricultural farm workers have just begun to be delivered on anything approaching a meaningful level. These people represent one of our most pressing dilemmas since they combine medical need, indigency, cultural patterns which may be alien to contemporary health practices, and a high degree of geographic mobility. To date our efforts to help them have been inadequate, but surely the answer must lie in providing more effective assistance, not in cutting it off. I hope you will support legislation to extend the Migrant Health Act. The migrants certainly need our help.

Thank you.

Sincerely,

ROBERT L. KANE, M.D.,
Assistant Professor.

SAN PATRICIO MIGRANT,
HEALTH CENTER,
Mathis, Tex.

Senator EDWARD M. KENNEDY,
431 Old Senate Office Building,
Washington, D.C.

The existance of the Migrant Health Project has proved itself very beneficial to the Migrant population of San Patricio County. As past experience indicates, the migrants health care has been very rewarding. By the availability of the San Patricio Migrant Health Project, the migrants have received medical care that they would not normally receive elsewhere. These migrants are ineligible for either State or county assistance, therefore, if the San Patricio Migrant Health Project was non existance, their health would be seriously jeopardized.

State statistics show that in the county of San Patricio, there are 47.1 percent of the people whose income is less than $6,000; an additional 25.4 percent whose income is $6,000–$9,000, therefore, there is a 72.5 percent of the county that may be classified as indigent. Persons 65 and over constitute 18 percent of the total population of 47,228.

The migrants have provided to them health care, which if terminated, would have none at all. The majority are unemployed and therefore unable to pay for their health care and would not receive any if it were left up to them. Since the project was started to now in 1973, the migrants now have fewer severe illnesses and general illnesses.

Slowly but surely, the younger generation are being brought up different. Slowly but surely, the migrants are comprehending that by having health care, they are sick less than they were before the establishment of the project. "There seems to be fewer illnesses now, stated a migrant, and I feel like when I am sick there is a place to go and not worry about payment."

The migrants do realize the necessity and effectiveness of the project. The following services are available at the project: General medical care; Laboratory; Emergency room; EKG; Ultrasonic; Diathermy; IPPB; X-ray including upper and lower GI Series, Gall Bladder, IVP, IVC and routine X-rays.

Sincerely,

WILLIAM F. KREBETHE, D.O.

COUNTY OF JIM HOGG,
Hebbronville, Tex., January 8, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: It has come to our attention that the Migrant Health Act is about to be discontinued and this letter is to urge you to please propose an extension of said act.

It is direly needed in our county due to the fact that it is composed of about 80 per cent Mexican-American and a great number of them are migrant workers.

If it could only be shown to Congress and the Senate how much good and beneficial our local Migrant Health Clinics has been to our people. I am sure they would think twice before cutting off these benefits. Most of the migrants by the time they return home are very limited in their finances, and if there are no means for their childrens' health care we know that their children will be neglected in this respect.

We urge and plead with you to use all your influence in the extension of this Migrant Health Act which has been so merciful to many of the ethnic minority groups.

Respectfully,
H. T. MARTINEZ, *County Judge.*

HEALTH PROJECT No. 97,
Hebbronville, Tex., January 8, 1973.

SIRS: This writing is being directed to the Honorable Committee To Save The Migrant Health Act in behalf of 144 families which include 714 persons in the Jim Hogg County, Texas, community.

Before the advent of the Migrant Health Project to Hebbronville and the Jim Hogg County area, many of our people were in dire need of medical services and lacked in knowledge of health practices and sanitation. Since June 19, 1967, according to reports compiled by staff members of the clinic, much improvement has been shown in health conditions among the recipients.

Because of the favorable results that are evident since the program began, it is felt that a continuation of the services is essential. Further, it is felt that not to continue the services will cause a setback in health conditions, health practices, sanitation and nutritional practices among the poor.

It is hereby recommended to the Honorable Committee by the undersigned that an affirmative recommendation for the continuation of these services be made to the proper governmental bodies.

Respectfully submitted,
Marta Ramirez, Antonio Guerrero, Joe Barrera, E. G. Nava, H. T. Martinez, Chairman, Horacio Ramirez, Julieta Reynaga, Ludivina Almaraz, Adelina Gonzalez.

PALM BEACH COUNTY
HEALTH DEPARTMENT,
January 2, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: No group in our Nation is more underpriviliged than agricultural migrants. Their many health problems result from poverty, poor housing and sanitation, inadequate education, lack of resources for medical care and migratory living patterns. Language and cultural barriers, lack of transportation and related factors interfere with obtaining health services.

With passage of the Migrant Health Act, limited funds became available to develop services specifically designed to meet health needs of agricultural migrants and seasonal farm workers. Despite the fact that appropriations have permitted services to be initiated in only a portion of the farming areas, and have been grossly inadequate in comparison with the needs, a great deal has been accomplished with a potential for much more if support can be continued and increased.

Experience has demonstrated that other health programs will not meet the peculiar and specific needs of these most necessary and worthy people. Relatively few have qualified for Medicare and Medicaid. General services which are not adapted to working and living patterns, mobility, language and cultural obstacles will not be effective.

At this critical time, when there is hope that our long standing commitment can be met by building on past experience and by developing new approaches. We should not withdraw support, but instead we should increase it.

We need the Migrant Health Act. Please give your strong support toward its continuation, with increased funding.

Sincerely yours,
C. L. BRUMBACK, M.D.

TEXAS STATE
DEPARTMENT OF HEALTH,
Austin, Texas, January 8, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: There is considerable concern that the Migrant Health Act, which provides medical services to migrant and seasonal farmworkers, will be terminated in June of 1973.

I am asking your support for the continuation of the Migrant Health Act for the following reasons:

(1) The recipients of this program have little or no medical care provided for them. Most of them do not qualify for welfare or other means for emergency medical care.

(2) Economic Impact on Agriculture—Farmers have increasing problems of obtaining adequate labor. Migrant Health Care Projects have shown that migrants consistently return to the area where they can get medical attention, thus providing a reliable labor force for the farmer.

(3) Economic Impact on Existing Medical Care Delivery Systems—Hospitals cannot absorb additional indigent cases. Patients (migrants and seasonal farmworkers) are usually seen in the clinic setting. Lack of funding will cause an increased indigent patient load on the physicians and city or county emergency medical funds. In brief, migrants and seasonal farmworkers will not receive medical care.

Thank you for your active participation and support of the Migrant Health Act.

Sincerely yours,
BILL F. MITTAG,
Texas Migrant Health Programs.

GEISINGER MEDICAL CENTER,
Danville, Pa., January 19, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: The Geisinger Medical Center as the major provider of medical care to migrant workers in the Commonwealth of Pennsylvania fully supports an extension of the Migrant Health Act.

Each year the Geisinger Medical Center in co-operation with the Pennsylvania Department of Health provides medical care to a migrant population in excess of 2000. This year in addition to providing acute care, a portion of the migrant workers were voluntarily enrolled in the Geisinger Health Plan (an operational Health Maintenance Organization). The latter, a developmental program initiated by the Institute for Medical Education and Research emphasized comprehensive medical evaluation in addition to providing acute care to the enrollees.

Through this experience the Geisinger Medical Center recognizes the need for migrant health care. Health care for this underserved population is at best minimal with very little provisions for follow up or continuing care. The problem and burden of providing health care to this unique population is too great a responsibility for local agencies and therefore requires support at the national level.

Failure to extend support of the Migrant Health Act will retard and eliminate the concept of health care in the minds of the migrant population as well as denying accessibility to basic medical treatment.

Sincerely,
ELLSWORTH R. BROWNELLER, M.D.,
Director of Program Planning.

WAUSHARA COUNTY MIGRANT
HEALTH PROJECT,
Wautoma, Wis., January 11, 1973.

Senator E. M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: The Waushara County Migrant Health Project presently has two clinic sites, one at Wautoma, Wisconsin and one at Endeavor, Wisconsin. Each year a substantial number of migrant farm workers come to our area to work in the fields and processing plants. Wautoma also has a large influx of tourists. The population of the area more than doubles in the summer. Without the Migrant Health Clinics, the providers in the area would be hard pressed to serve everyone needing medical care.

The Migrant Health Project is severely needed for more than the above stated reason. The average migrant family size is six; the average family annual income is under $2,100.00. The amount of Migrant Health Act funds expended in fiscal year 1972 was expected to average 5.10 per person. As a nation, we average 324.100 for health needs per person. The private consumer is estimated to spend 204.00 for his health costs. So it is little wonder that the infant mortality rate for migrants is 2½ times the national average. Mortality rates for tuberculosis and other infectious diseases are 2½ times higher than the national rate as well. The average life expectancy for the migrant is under 60 years of age; for the average U.S. citizen is over 70 years of age. The migrant infant death rate is over 63 deaths per 1,000 live births. The statistics for today's migrants are comparable to the national average in the year 1930. A recent study found that under age 3, some 59 per cent have never had immunizations.

These statistics provide grim evidence that the Migrant Health Act not only should be extended but that its funds should be increased.

In an affluent America, let us not allow children to suffer crippling diseases because of lack of immunizations. Unlike other less transient members and aspirants of the "American Dream" the migrant does not have the necessity of employer matched health insurance. His ability to receive help is often stifled by not meeting residence requirements, yet he picks the nation's crops.

This letter constitutes a fervent appeal, a strong request that the Migrant Health Act be extended with increased funds.

Sincerely,
JAMES NIEMEIER,
Project Director
JOSE CASTRO,
Project Board Chairman

JANUARY 18, 1973

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR: The passage of the Migrant Health Act in 1962 and the extensions granted this service to migrant farmworker families was one of the rare expressions of concern by the United States Congress for over one million persons who earn their living by following the harvest of crops in this vast country. Presently, and in years passed, funds appropriated for Migrant Health have provided for much needed

health services for many migrant farmworker families. This includes medical services that may have never been accessible otherwise.

Without these funds for Migrant Health, perhaps the "discovery" of the abominable gaps existant in the distribution of health services for Americans would have been delayed for years. The federal government, through the efforts of programs such as this, has led the efforts to bring justice to the miserable lives of thousands of persons whose destiny rides precariously with the fortunes of the crops.

The federal government has provided massive financial relief to other elements of the agricultural community for scores of years, but ironically, little interest has been shown by Congress for the poor and near poor wage earner or the farmworker who needs help the most.

In the face of "wheat scandals" in the Department of Agriculture and record profits in agribusiness, while thousands of farmworkers scratch out a "living" on minimum wage, it is hard to believe that Congress would even consider reducing the appropriation to Migrant Health.

I personally urge those friends of the migrant and seasonal farmworker, such as yourself, to fight for their interests in Congress and to assure adequate appropriations for the vitally needed medical services.

Sincerely yours,

ROBERT GOMEZ,
MAX D. SMITH.

OTTAWA COUNTY MIGRANT FAMILY HEALTH SERVICE CLINIC,
Oak Harbor, Ohio, January 11, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: It is with great concern that I write in regard to the future of the Migrant Health Act. From various information sources, it seems that the Act is in jeopardy, and that there is a possibility that the services it provides might be terminated.

As the project director of the Ottawa County (Ohio) Migrant Health Clinic, I appeal to your sense of social justice and concern to extend the Migrant Health Act. The services it offers are absolutely necessary to provide for the basic needs of the migrant and seasonal farmworker. Perhaps of any group of people, the migrant, who comes into an area as a stranger, handicapped by language difficulties, without direction and aid, would experience serious problems, especially in regard to his medical needs, if the Migrant Health Act would be discontinued.

As a concerned citizen, I urge you to use your influence to assure continuance of the Migrant Health Act. Our farmers who depend on migrant work for harvesting would encounter more serious setbacks in their farm program. Their farm operation would be in jeopardy. Of course, the migrant himself would suffer the most harm if his crucial medical needs were ignored.

May we rely on you to help insure continued medical care for the migrant and seasonal farmworker, by voting to extend the Migrant Health Act.

Thanking you for your interest,

Rev. JOSEPH P. JAROS,
Project Director.

MIGRANT HEALTH PROJECT,
Kingston, N.Y., January 12, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: As a member of a Migrant Health Project, I am advocating the necessity to extend the *Migrant Health Act.*

The general health of migrants and seasonal farmworkers is crucial. Migrant Health Projects which are dependent upon the continuation of the *Migrant Health Act* work toward improving the health of migrant workers. Programs such as ours try to deliver health measures to these people, who otherwise would have no health care whatsoever.

The right to health care should be given to all. Migrants are medically indigent for the most part. Migrant Health Programs are dedicated to improve this situation. Without the *Migrant Health Act,* migrant workers will find themselves in a more serious situation.

Should they be denied health care? If the *Migrant Health Act* is abolished, they will be denied the right to have health and health services.

I am making this plea to you. Please do whatever you are capable of doing in regard to revitalizing the *Migrant Health Act.* Thank you for your time and consideration.

Respectfully yours,

GEORGE ALTIMONDA,
Program Planner.

SAN MARCOS-HAYS COUNTY MIGRANT PROJECT,
San Marcos, Tex., January 19, 1973.

Sen. EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: I am writing you to ask that you put forth every effort to see that the Migrant Health Act under the Department of Health, Education and Welfare be extended after its termination date in June 1973.

I suggest this because I believe the health needs of over one million migrant farmworkers have been neglected for too long.

In light of the plight of the migrant worker, I feel that failure to extend this act would be a sad step indeed. The man and his family who follow the crops rarely receive adequate health care; his work usually takes him to isolated areas that do not have adequate facilities or programs, or to areas where he is unaware of the facilities. The migrant's working and living conditions make him highly vulnerable to a wide range of diseases.

If provisions are not made for extending the Migrant Health Act, this will seriously reduce the amount of health services available to those who severely need more help—not less help.

Sincerely,

JAMES S. BURWELL,
Administrator.

ROMNEY ORCHARDS, INC.,
Romney, W. Va., January 10, 1973.

Sen. EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

SIR: We understand that medical services to migrant and seasonal farm workers under the *Migrant Health Act* will be terminated in June, 1973.

Since there is no form of hospitalization insurance available to many of these people, this has been the only form of payment for medical services these people could rely upon, and we feel they should have the right of the same feeling of security during illness that other people have.

Therefore we urgently request that you do whatever you can to see that this Act is extended, or to provide some form of medical insurance for these people.

Very sincerely,

E. W. MILLER,
President.

SOUTH TRACY IMPROVEMENT ASSOCIATION,
Tracy, Calif., January 18, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: Rural poverty would be tragically deepened by the termination of the Migrant Health Act.

We urge you to support legislation to continue this program of medical services for agricultural workers.

Sincerely,

WILLIAM J. KILLIAN,
Director.

FARM WORKERS FAMILY HEALTH CENTER,
Toppenish, Wash., January 15, 1973.

AD HOC COMMITTEE TO SAVE THE MIGRANT HEALTH ACT,
Washington, D.C.

DEAR SIRS: It has been brought to my attention and to the attention of the community that the Congress of the United States may not approve legislation extending the Migrant Health Act as amended providing health services to migrant and seasonal farm workers during their migration from their home-of-record.

Since the enactment of the Migrant Health Act in 1964, we have seen many changes in the traditional administration of these funds by local health districts. To clarify this statement, I can only address myself to the care that was given the migrant within this particular state; however, these views have been expressed to me as problem areas in other states as well. The history of having migrant health funds administered by local health districts and/or professional societies has not proven an effective means of reaching the disenfranchised group of people which it was intended. This administrative structure did not provide any continuity of care as people moved from one area to another during the growing season and, most important, did not provide any type of effective, preventive health programs that were directed toward the target population in order to introduce them into the mainstream of medicine. This was probably due to lack of long-range planning, lack of setting priorities by local health districts and, mainly, the attitude of public servants to the farm working community.

This administrative weakness at the local health districts can be best illustrated by the geo-social problems that had not been addressed. An example of this would be a labor camp where a given number of perspective recipients of health services would be unable to receive such services because the county boundary happened to be a dirt road separating two labor camps and our public servants' failure to cross said boundary, recognizing that a mere 120' of space separated health services to one camp. This attitude has led the consumers to say, and it is within reason for them to do so, that the community and its responsible service agencies did not really care whether they received health services or not. This is only one of many incidents which lead me to say that in addressing the health needs of the migrant, seasonal farm worker and rural poor, Congress must realize that this overall group of needy people is an economic consequence resulting from the manipulation of agribusiness and not a static group permanently employed in agriculture.

With the development of the Neighborhood Health Centers during the past three or four years, we have added a new dimension to the delivery of ambulatory services and preventive services to the seasonal farm worker and migrant in a manner that will preserve his dignity and, at the same time, provide a mechanism for peer review as to the quality of care which is given to him. Congress and the Department of Health, Education and Welfare must be educated to comprehend the total impact of extending the Migrant Health Act for a minimum of four years. Not only would extension of the Act be necessary to insure that all grantees attain their stipulated goals, but Congress and the Department of Health, Education and Welfare must be educated to the fact that prior to the establishment of Neighborhood Health Centers, the goals that were

stated in the original Migrant Health Act could not have been met with existing provider control. Therefore, we must assume that we are and Congress is at least four years behind in attaining said goals as provided for in the Migrant Health Act of 1964.

The impact that can be seen in community controlled programs extends itself to the efficient use of professional health manpower as well as being an important step in utilization of para-professionals in delivering primary ambulatory care and the necessary supportive social services. As we all know, this country is in a professional manpower crisis as far as physicians, nurses and necessary technologists in the health fields and related social services. What we have done with the Migrant Health Act is to provide primary ambulatory services and also provide a means to educate, train and utilize para-professionals who are recruited from the target population. This training to an indigent population provides the mechanism by which they can gain exposure to the health disciplines and allow them to receive a marketable skill so that they can compete with the mainstream labor force, not only at the place where they were trained, but at their home-base areas where primary care and preventive services should be started in an effort to provide continuity of care during their migratory cycle.

In order to give you a better understanding of the communities' feeling about the health care they had received, please find enclosed the following documents:

(1) Notes from Migrant Health Planning Conferences in Mount Vernon, Washington, on December 8, 1969, and in Sunnyside, Washington, on December 10, 1969.

(2) Proposed migrant health resolutions adopted by the conferees at the Southwest States Chicano Consumer Conference on Health held in San Antonio, Texas, on January 26–29, 1972.

(3) Paper entitled "Community Based and Controlled Migrant Health Service Delivery Model" which was presented at the San Antonio conference cited above.

Finally, I would like to say that it is not the intention of this organization, the community or the farm worker to cling to the apron strings of the federal government but to be afforded the opportunity to guide their own destiny in attaining the same level of health that the status quo enjoys.

Sincerely,

RAYMOND ESPARZA, Jr.,
Executive Director.

FLOYD COUNTY MIGRANT
HEALTH SERVICE PROJECT,
Floydada, Tex., January 9, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: I would like to urge that careful consideration be given to the continuance of the Migrant Health Act that provides medical assistance to migrant and seasonal farm workers.

The Migrant Health Program has been an important factor in educating the migrant people in ways to improve their general health status, as well as providing many needed health services which would not have been available to them otherwise.

Until such time as the financial status of the majority of the farm workers is sufficiently high to enable them to secure essential medical services, there is a definite need to continue to provide assistance for them.

Sincerely yours,

J. K. HOLMES,
County Judge-Project Director.

ACCOMACK COUNTY SCHOOLS,
Accomack, Va., January 15, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I write to urge you to approve legislation extending the Migrant Health Act.

I serve as chairman of the Project Policy Board, an advisory group for the migrant health services in this two-county area, and I can testify as to the great benefits the Migrant Health Act has brought to America's "forgotten people."

Your cooperation will be greatly appreciated.

Respectfully yours,

A. K. FISHER,
Assistant Superintendent.

GATEWAY CHRISTIAN CENTER,
Muncie, Ind., January 23, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

SENATOR KENNEDY: For the past several years the Health Clinic of the Gateway Christian Center has been providing a minimal amount of health care for migrants in Delaware County, Indiana. This contact has acquainted us with the fact that there is a dire need of medical services for migrants.

We now read that without legislation extending the Migrant Health Act, medical services to migrants will be terminated in June of 1973. This, we feel, will not only be a tragedy, but also a most inhuman dereliction of responsibility. Thus, the Board of Directors and staff of the Gateway Christian Center and Health Clinic strongly urge that you support efforts to extend the Migrant Health Act.

Let me add that our concern is not due to fear of any loss of funds for we get no Migrant Health Act funds. Our concern is strictly based upon the fact that we are acutely aware of the number of migrants who come into our area contending with the agony and anguish of doing without even the basic medical necessities. We trust that you will share our concern and support the extension of the Migrant Health Act.

For the Board and staff of the Gateway Christian Center and Health Clinic.

Sincerely

FRANK ALEXANDER,
Executive Director.

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, Pa., January 5, 1973.

Hon. EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: Prior to 1963 migratory farmworkers and their families who came to Pennsylvania had great difficulty in obtaining even basic medical care. They were hospitalized only in cases of dire emergency. There were no outreach services. Few could obtain needed drugs. Laboratory and diagnostic services were unavailable. Dental care was sporadic. Camp inspection was inadequate.

Since 1963, with the advent of the Migrant Health Act, the State Department of Health was given a modest grant to provide comprehensive health care to migrants. This grant has since been received annually. The results have been outstanding. No federal dollar has been more productively spent than the dollar spent for migrant health services.

For example note the following statistics:

1. Of the 6,703 migrants who came to Pennsylvania in 1971, 3,581 attended clinics; 1,057 were seen by private physicians; 206 were hospitalized; 1,055 immunizations were given; and 2,837 dental services were provided to 881 migrants and their children.

2. But transportation was provided in eight of the 20 counties served; 317 migrant camps were inspected; and 275 children were screened for vision defects.

3. Needed drugs were provided through contracts with hospitals and local pharmacies and, through similar hospital contracts, laboratory and X-Ray diagnostic services were made available.

In recent years, in addition to the dedicated migrant health nurses who are hired by the project each year, migrant health aides have been recruited from the migrant ranks. They have brought great understanding and sensitivity as well as effectiveness to the program.

The Pennsylvania migrant population is concentrated in three rural areas in which medical and hospital care is provided by a steadily aging though dedicated group of physicians. These physicians barely meet the demand for medical care of the resident population.

But for the supplementation of local resources provided under the Migrant Health Act, these marginal medical resources would be swamped by the annual deluge of migrants.

The agribusiness in Pennsylvania—its fruit crops, tomatoes, potatoes, and mushrooms—are essential to the economic prosperity of the Commonwealth. The agribusiness relies on migrant farm labor for its survival.

The productivity of the migrant work force in turn depends upon the health services provided by the migrant health project.

Thus it may be seen that of all the federally supported health programs none can boast of a more visible and definable "payoff" than the migrant health program.

Therefore, an extension of the Migrant Health Act is imperative for the well-being of migrants, for the economy of the State, and for the health and prosperity of the Nation.

I strongly urge you to do everything possible to bring about such an extension.

Sincerely yours,

J. FINTON SPELLER, M.D.,
Secretary of Health.

MODESTO, CALIF.,
January 22, 1973.

Senator EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

SIR: Recently I received a letter stating that the *Migrant Health Act* is in serious jeopardy unless legislation approves an extension of this act. As a nurse in the Patterson camp I feel that the services rendered to these people through our Rural Health Office are a vital part of their continuing health and education.

Nearly all of the health education received by the rural farm worker and migrant farm worker originates in our office. If this office were closed the health of these people would be in danger due to their lack of knowledge in health areas, and lack of funds with which to seek other medical help. For example, a large number of people in the Patterson area are diabetic and concerned about their problem but don't have the education and understanding of what is involved or how to treat it.

For the fiscal year 71–72, in this County, the Stanislaus Rural Health Care Program saw 15,856 people, all of which were screened and referred to Private Medical Doctors. Referrals to various community agencies such as Family Planning, Welfare, Public Health Clinics and Mental Health, totaled 2,635. Then, 10,400 were seen and treated by the R.N. in the Health Office.

For these reasons, I urge you to extend the *Migrant Health Act.*

Yours very truly,

MARILYN HOLLOWAY PHN, R.N.

By Mr. BIBLE:

S. 741. A bill to permit American citizens to hold gold. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BIBLE. Mr. President, I introduce for appropriate reference a bill which would allow citizens to purchase, hold,

sell, or otherwise deal in gold without restriction. Enactment of this bill would immediately and fully restore to our citizens an important right taken from them in 1933 and 1934. Since our Nation discarded the gold standard in 1968 and has sufficient gold to meet its international monetary commitments, no reason exists for continuing to deprive citizens of their right to hold gold. Therefore, my bill would simply repeal sections 3 and 4 of the Gold Reserve Act of 1934.

Enactment of my proposed legislation would immediately enable people in the United States to treat gold as any other commodity. Whatever their values or reasons, they could buy it, trade it, sell it, or keep it. Thus, our citizens would regain rights identical to those now held by citizens in 50 other nations including Canada, Japan, and the major powers of Europe. No longer would the holding of gold be limited, as it is now, to old coins, art objects, and metal for industrial uses.

Some of my colleagues in the Senate may fear that repeal of the outdated Gold Reserve Act would negatively affect the domestic or international monetary position of the United States domestically or internationally. Substantial evidence to the contrary has already been provided for the RECORD by our distinguished colleagues, Senator HATFIELD and Senator DOMINICK, in connection with legislation on the same subject introduced January 16, 1973. I will not burden the RECORD by repeating their contributions here.

Public Law 90-269 in 1968 removed the need for gold reserves to support our currency, and the United States has not purchased gold on the international market since 1971. Deposits of gold to back our international monetary commitments have been removed from the Treasury. Our gold reserves, valued in excess of $10 billion, are essentially unencumbered.

Persistent rumors are circulating that the administration will return to our citizens in 1973 the privileges with respect to gold that were taken from them in 1933. I submit that the administration has already procrastinated too long. The international monetary system has taken shape and is largely isolated from events in the private market for gold. The system continues to function in the face of rapid and large changes in the prices of gold on world markets.

My bill scrupulously avoids any reference to the Government's stocks of gold. Whether and how these should be depleted or augmented should be decided by experts in the Department of the Treasury, in the Bureau of Mines, and in the congressional committees dealing with banking, currency, and international monetary matters. Policies on disposition of stocks of gold now held by the United States must be carefully worked out with due consideration for balance of international payments, stability of prices for gold, rates of domestic and international production of gold, needs for gold as money, and support for our international financial commitments.

Regardless of the Federal Government's posture on gold, my bill recognizes that each person in this country deserves the right to determine his or her individual policy toward gold. To this end, my bill would restore to citizens the unfettered right to buy, hold, sell, or otherwise deal in gold.

I ask unanimous consent that the text of my bill be printed in the RECORD at the close of these remarks.

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

S. 741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 3 and 4 of the Gold Reserve Act of 1934 (31 U.S.C. 442 and 443) are repealed.

SEC. 2. No provision of any law in effect on the date of enactment of this Act, and no rule, regulation, or order under authority of any such law, may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing in gold.

By Mr. BIBLE:

S. 742. A bill to amend title 18 of the United States Code to provide civil remedies to victims of racketeering activity and theft, and for other purposes. Referred to the Committee on the Judiciary.

Mr. BIBLE. Mr. President, criminals and criminal acts have been with society since the biblical beginning of time when Cain murdered his brother Abel. Crime was brought dramatically to this Chamber this week with the senseless, dastardly attack on the distinguished Senator from Mississippi (Mr. STENNIS) who all of us are praying regains his full and complete health and returns to these Halls to provide his great capability, equanimity, and equilibrium not only to this body and the Congress but to this country and the world.

These observations are a preface to a bill I introduce at this time for appropriate reference designed to strike at one phase of criminal activity these days, the control of the criminal redistribution system, commonly called fencing, which we believe is supporting the $16 billion cost that American businesses pay yearly for property thievery of every character.

Certainly, the challenge posed by broad-scale criminal attacks against this country's transport system may be the single biggest test for law enforcement and security capability in the business area in the 1970's and probably beyond. That test will be sharpened by an estimated record tonnage to be transported in the next decade in a society where security from crime and prevention of crime are becoming the goals of a carrier industry's effort to deal with the biggest billion-dollar racket nationally today—the theft, pilferage, loss, hijacking, and fencing of truck, rail, air, and ship cargo.

Mr. President, in brief my bill will permit those in lawful possession of goods to sue in a civil proceeding for treble damages, those who steal, purchase, or resell goods stolen from interstate commerce.

For the past 3½ years as chairman of the Senate Small Business Committee, I have listened to testimony during our cargo crime hearings which revealed that the American shipper loses over $1.5 billion a year to the cargo thief. These losses are naturally passed on to the American consumer in the form of crime inflated prices.

Witnesses before our committee have repeated the same theme, that these goods stolen from trucks, railroads, air carriers, and maritime carriers are passed on to unscrupulous buyers for eventual resale in both legal and legitimate markets. As one observed—

A thief doesn't have that many girl friends to give gifts to.

My bill would place a new enforcement tool in the Federal arsenal to reach these criminal dealers, taking the profit out of marketing these stolen goods.

Mr. President, it was my pleasure to first propose this legislation in 1971. Through the capable efforts of the distinguished senior Senator from Arkansas (Mr. MCCLELLAN), chairman of the Judiciary Committee's Criminal Laws and Procedures Subcommittee, we refined this concept with legislation introduced in 1972. I give great credit to the capable staff of the Senate Judiciary Committee's Criminal Laws and Procedures Subcommittee, in helping to develop this antitrust, treble damage, civil remedy approach to get at cargo thievery as proposed by my bill.

This concept was reported out favorably by the Senate Judiciary Committee and subsequently passed by the Senate on September 5, 1972, as a part of the Civil Remedies for Victims of Theft and Racketeering Act of 1972. It was passed by the Senate a second time on September 18, 1972, as a part of general anticrime amendments to H.R. 8389, the omnibus drug abuse control bill. Neither cleared the other body because of the pending adjournment.

My purpose in reintroducing this bill at this time is to provide an impetus so that the Senate may have the opportunity to pass it a third time and thereby provide the other body with sufficient time to appropriately consider it.

The logic behind this legislation is to help destroy the thief's market for stolen goods. If a thief does not have a buyer to purchase and resell his "hot cargo" it becomes valueless to him. It stands to reason that if a fence or purchaser of such hot cargo is vulnerable to lawsuit in a civil proceeding which as my colleagues know is governed by a less stringent evidence rule than criminal, for threefold the fair market value of the stolen goods, his marketing ability will be adversely affected.

Specifically, the bill would:

First. Permit persons in legal possession of goods—such as truck, air, rail, and maritime carriers—to sue for treble damages those persons responsible for stealing, buying, or reselling goods in interstate commerce;

Second. Provide that if goods are sold at less than fair market value, it is prima facie evidence that an involved party is trafficking in stolen goods;

Third. Permit the Attorney General to enter a private civil damage suit on a class action basis for all U.S. citizens; and

Fourth. Permit Federal district courts

to issue injunctions to force persons engaged in sale of stolen goods to divest themselves of business fronts used in illicit marketing activities.

For the benefit of my colleagues, I would like to advise that a number of states are now considering comparable legislation to deal with the intrastate criminal middlemen. An example is California, whose legislature last year unanimously passed an act similar to the provisions of the bill I am introducing. It was signed into law by Governor Reagan on August 16, 1972.

To acquaint the remaining 49 States with the scope of the problem and to assist them deliberate as to the merits of this approach, I wrote to each of the Governors and provided them with an in-depth background of both the Federal concept and the new California law.

I would also like to advise my colleagues that the Senate Small Business Committee has available a staff report, which I understand to be the first such congressional document, exploring in detail the many methods by which the fence system operates in this country.

Mr. President, I would urge other Members of this body to join in cosponsorship of this bill designed to not only assist this country's commercial transport system but all businesses which it supports.

If I remember correctly, in the heyday of the Al Capone reign in Chicago, he was convicted not for murder, theft, the Volstead Act, or other mobster activity, but for income tax evasion. It is now time we go after the modern-day cargo thieves indirectly, too, as this bill proposes and more directly as other pending legislation suggests.

Mr. President, in conclusion I ask unanimous consent that there be inserted into the RECORD at the close of my remarks a copy of my bill, a section-by-section analysis of the bill, a copy of my letter to the Nation's Governors suggesting an intrastate approach patterned after the interstate provisions of my bill, an article in "Transportation Topics," published by the American Trucking Associations, plus its editorial, "Deprofiting Thievery."

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

S. 742

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 "Civil Remedies for Victims of Racketeering Activity and Theft Act of 1973".

RACKETEER CIVIL REMEDIES

SEC. 1. (a) Section 1964 of title 18 of the United States Code is amended by—

(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction".

(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appears;

(3) striking the word "action" in subsection (b) and inserting in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) of such section and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger of irreparable loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action before a final determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, wihout regard to the amount in controversy, and shall recover the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(f) The United States may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be estopped as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matters complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.".

(b) Section 1965 of title 18 of the United States Code is amended by—

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "instituted by the United States"; and

(3) inserting in subsection (d) "civil or criminal" immediately before "action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a party".

(d) Section 1967 of title 18 of the United States Code is amended by striking "instituted by the United States", and inserting in lieu thereof "or proceeding".

(e) Section 1968 of title 18 of the United States Code is amended by—

(1) striking out "prior to the institution of a civil or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereunder and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsection (f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of subsection (f).

THEFT CIVIL REMEDIES

SEC. 2. (a) Section 659 of title 18 of the United States is amended to read as follows:

"§ 659. Interstate or foreign shipments by carrier; State prosecutions; civil remedies for victims of theft

"(a) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property which is moving as, or which is a part of, or which constitute an interstate or foreign shipment from any pipeline system, railroad car, wagon, motortruck, or other vehicle, or from any tank or storage facility, station, station house, platform, or depot, or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal, or air navigation facility, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing, or having reason to know, that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained.

"(b) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property, which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce, or to break into, embezzle, steal, unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any of the contents of such baggage, goods, chattels, or other property, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing or having reason to know that it has been embezzled or stolen or otherwise unlawfully taken, carried away, concealed, or obtained.

"(c) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce, or from any passenger thereon, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing or having reason to know that it has been embezzled, stolen, or otherwise unlawfully taken carried, concealed, or obtained.

"(d) Whoever violates any provision of subsection (a), (b), or (e) of this section shall in each case be fined not more than $5,000 or imprisoned not more than ten years, or both; but if the amount or value of such money, baggage, goods, chattels, or other property does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(e) The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to prevent and restrain violations of this section by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enter-

prise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

"(f) The Attorney General may institute proceedings under subsection (e) of this section. In any proceedings brought by the United States under subsection (e) of this section, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions as it shall deem proper.

"(g) Any person may institute proceedings under subsection (e) of this section. In any proceeding brought by any person under subsection (e) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of irreparable loss or damage, a temporary restraining order and preliminary injunction may be issued in any action before a final determination thereof upon its merits.

"(h) Whenever the United States is injured in its business or property by reason of any violation of this section, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by the United States, and the cost of action.

"(i) Any person who is injured in his business or property by reason of any violation of this section may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover three-fold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(j) Any civil action or proceeding under this section against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

"(k) In any civil action or proceeding under this section in any district court of the United States in which it is shown that the ends of justice require that any other party residing in any other district be brought before the court, the court may cause such party to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

"(l) In any civil or criminal action or proceeding under this section in the district court of the United States for any judicial district, subpenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

"(m) All other process in any civil or criminal action or proceeding under this section may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

"(n) The United States may, upon timely application, intervene in any civil action or proceeding brought under this section if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if he had instituted the action or proceeding.

"(o) A final judgment or decree rendered in favor of the United States in any criminal action or proceeding under this section shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(p) Except as hereinafter provided, any civil action or proceeding under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (h) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of this section, the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsection (g) or (i) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.

"(q) A violation of this section shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, chattels, or other property.

"(r) The carrying or transporting of any such money, baggage, goods, chattels, or other property in interstate or foreign commerce, knowing, or having reason to know, it had been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained, shall constitute a separate violation and subject the violator to criminal penalties and a civil cause of action under this section and the violation shall be deemed to have been committed in any district into which such money, baggage, goods, chattels, or other property, shall have been removed or into which it shall have been brought by such violator.

"(s) To establish the interstate or foreign commerce character of any shipment in any criminal or civil action or proceeding under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. The removal of property from a pipeline system which extends interstate shall be prima facie evidence of the interstate character of the shipment of the property. Proof that a person was found in unexplained chattels, or other property, recently embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by possession of any money, baggage, goods, fraud or deception in violation of this section, shall be prima facie evidence that such person knew that such property was, or that such person had, embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception such money, baggage, goods, chattels, or other property in violation of this section. Proof that a person bought or received for a consideration substantially below its fair market value money, baggage, goods, chattels, or other property embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section shall be prima facie evidence that such person knew that such property was embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section.

"(t) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any criminal prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof."

(b) The analysis at the beginning of chapter 31 of title 18 of the United States Code, for section 659, is amended to read:

"659. Interstate or foreign shipment by carrier; State prosecutions; civil remedies for victims of theft.".

SEVERABILITY

SEC. 3. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 4. This Act shall become effective upon the date of enactment.

SECTION-BY-SECTION ANALYSIS

Section 101 sets out the purpose of this bill.

RACKETEER CIVIL REMEDIES

Section 102(a) amends section 1964 of title 18 of the United States Code, which provides civil remedies for the violation of prohibited racketeering activities enumerated in section 1962, title 18, United States Code, as follows:

Subsection (1) amends subsection (a) which provides that the district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1972 by allowing such courts to have jurisdiction "without regard to the amount in controversy."

Subsection (2) amends subsection (b) which authorizes the Attorney General to institute proceedings by adding new language to clarify that proceedings are brought under subsection (a) of section 1964.

Subsection (3) amends subsection (b) by using the term "proceedings" in each instance to refer to the action of the Attorney General.

Subsection (4) strikes and substitutes a new subsection (c) to permit any person to institute proceedings under subsection (a) of section 1964 and to be granted injunctive relief from threatened loss or damage; and to be granted a temporary restraining order and a preliminary injunction upon the execution of proper bond and showing of immediate danger or irreparable loss or damage.

A new subsection (d) provides that whenever the United States is injured in its business or property by reason of a violation of section 1962 of this chapter the Attorney General may bring a civil action in a district court of the United States and shall recover the actual damages sustained, plus the cost of the action.

A new subsection (e) provides that any person injured in his business or property by reason of a violation of section 1962 of this chapter may bring a civil action in a district court of the United States and shall recover threefold the actual damage, the cost of the action, and a reasonable attorney's fee.

A new subsection (f) would permit the United States to intervene in any civil action if the Attorney General certifies that the case is of general public importance. In such action, the United States would be entitled to the same relief as if it had instituted the proceeding.

A new subsection (g) provides that upon a final judgment in favor of the United

States the doctrine of estoppel between criminal and civil proceedings shall apply.

A new subsection (h) provides that any civil action under section 1964 shall be barred unless it is commenced within 5 years after the cause of the action. It further provides for the suspension of such action during the pendency of criminal proceeds by the United States and for 2 years thereafter.

Section 102(b) amends section 1965 (venue and process) of this chapter by—(1) clarifying language substituted in subsection (b) to identify the action as "civil action or proceeding under this chapter" rather than "action under section 1964" in the matter of summons and process serving; (2) striking language in subsection (c), relating to process serving, which would have allowed such actions only in proceedings "instituted by the United States" thus broadening the statute in regard to process serving in private actions or proceedings, or actions or proceedings intervened in by the United States; and (3) adding clarifying language in subsection (d) that nationwide venue and other process serving applies to both civil and criminal actions or proceedings under this chapter.

Section 102(c) amends section 1966 (expedition of actions) to provide that in any civil action or proceeding under this chapter in which the United States is a party, rather than limited to actions instituted by the United States, the Attorney General may file with the clerk of the district court a certificate stating that in his opinion the case is of general public importance for purposes of expediting the action.

Section 102(d) amends section 1967 (evidence) to provide that any civil action or proceeding under this chapter may be open or closed to the public at the discretion of the court, rather than limiting such procedure to actions instituted by the United States.

Section 102(e) amends section 1968 (civil investigative demand) to broaden the language authorizing the Attorney General to issue civil investigate demands to include actions or proceedings in which the United States intervenes as well as those actions instituted by the Attorney General; and substitutes the term "action" for the word "case" to more clearly include injunctive relief and restraining orders under the provisions of the section.

THEFT CIVIL REMEDIES

Section 103(a) amends section 659 of title 18 of the United States Code. The section caption is amended by adding the phrase "civil remedies for victims of theft." The new subsections are as follows:

Subsection (a) of section 659 makes it unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property which is moving as, or which is a part of, or which constitute an interstate or foreign shipment from any pipeline system, railroad car, wagon, motortruck, or other vehicle, or from any tank or storage facility, station, station house, platform, or depot, or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal, or air navigation facility or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing, or having reason to know, that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained.

Subsection (b) of section 659 makes it unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property, which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce, or to break into, embezzle, steal, unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any of the contents of such baggage, goods, chattels, or other property, or to buy, receive, have in his possession any such money, baggage, goods, chattels, or other property, knowing, or having reason to know that it has been embezzled or stolen or otherwise unlawfully taken, carried away, concealed, or obtained.

Subsection (c) of section 659 makes it unlawful for any person to embezzle, steal, or unlawfully take, carry away, conceal, or by fraud or deception obtain with intent to convert to his own use any money, baggage, goods, chattels, or other property from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce, or from any passenger thereon, or to buy, receive, or have in his possession any such money, baggage goods, chattels, or other property, knowing, or having reason to know, that it has been embezzled stolen or otherwise unlawfully taken, carried away, concealed, or obtained.

Subsections (e) through (p) add new substantive language to sec. * * * (b), and (c) as a fine of not more than $5,000 or imprisonment for not more than 10 years, or both; but should the value of such property not exceed $100, the fine shall be not more than $1,000 or imprisonment for not more than 1 year, or both.

Subsection (e) through (p) add new substantive language to section 659 to provide civil remedies for violations under the section.

Subsection (e) gives the district courts of the U.S. jurisdiction to prevent and restrain violations of this section. Certain remedies are set out, such as ordering any person to divest himself of any interest in any enterprise, and prohibiting any person from engaging in certain enterprises, but the remedies are only limited by making due provisions for the rights of innocent persons.

Subsection (f) provides that the Attorney General may institute proceedings under subsection (e). In such proceedings the court shall proceed expeditiously and may, prior to final determination, enter restraining orders or other actions as it deems proper.

Subsection (g) would permit any person to institute proceedings under subsection (e) seeking relief in conformity with the principles which govern the granting of injunctive relief from threatened loss in other cases. A temporary restraining order or a preliminary injunction may be issued, following the showing of immediate danger of loss and upon the execution of a proper bond against damages for an injunction improvidently granted.

Subsection (h) provides that the Attorney General may bring a civil action under section 659 whenever the United States is injured * * * its business or property and shall recover the actual damages sustained and the cost of the action.

Subsection (i) provides that any person who is injured by reason of any violation of section 659 may bring a civil action in a district court of the United States and shall recover threefold the actual damages sustained, the cost of the action and a reasonable attorney's fee.

Subsection (j) establishes venue wherever the defendant resides, is found, has an agent, or transacts his affairs.

Subsection (k) provides nationwide service of process on parties, if the ends of justice require it.

Subsection (l) provides nationwide subpena power for witnesses in civil or criminal actions or proceedings under section 659. In civil actions, a court order on good cause shown is required for issuance if the witness resides more than 100 miles from the court.

Subsection (m) provides for the service of process in civil or criminal actions under section 659 wherever the person resides, is found, has an agent or transacts his affairs.

Subsection (n) permits the United States to intervene in any civil action or proceeding brought under section 659 certified by the Attorney General as being of general public importance.

Subsection (o) provides specifically for collateral estopped between criminal judgments and civil actions.

Subsection (p) sets a 5-year statute of limitation on civil actions under section 659 and provides for the suspension of the running of the period of limitations during the pendency of civil or criminal actions brought or intervened in by the United States and for 2 years thereafter.

Subsection (q) is taken from the original section 659 and provides that a violation of the section shall be deemed to have been committed not only where it first occurred, but in any district in which the defendant may have taken or been in possession of the money or property.

Subsection (r), also, is taken from the original section 659 and provides that the transporting of money or property in interstate or foreign commerce knowing or having reason to know that such was unlawfully taken shall constitute a separate violation subject to criminal penalties and civil remedies. The violation shall be deemed to have been committed in any district into which such money or property shall have been taken. The previous language has been strengthened by the addition of the phrase "or having reason to know" that such property was unlawfully taken.

Subsection (s) enlarges on language which provided that the waybill or other shipping document shall be prima facie evidence of the interstate or foreign commerce character of any shipment in any criminal or civil action. It further provides that proof that a person was found in unexplained possession of unlawfully taken property shall be prima facie evidence that such person knew that such property had been unlawfully taken, or that such person had unlawfully taken such property. Proof that a person bought or received property at a price substantially under its fair market price shall be prima facie evidence that such buyer or receiver knew that such property had been unlawfully taken.

Subsection (t), from the original section 659, provides that a judgment under the laws of any State shall be a bar to any criminal prosecution under this section for the same act. It further sets forth the intent of the Congress that this section shall not be construed to operate to the exclusion of State statutes covering provisions of this section unless such State law is inconsistent with the provisions and purposes of this section.

Section 103(b) amends the analysis of chapter 31 of title 18 of the United States Code by adding to the reference language covering civil remedies for victims of theft.

Section 104 contains a severability clause.

Section 105 provides that this act shall become effective on the date of enactment.

[From Transport Topics, Dec. 25, 1972]

BIBLE URGES STATES TO CONTROL "FENCES"—ALL GOVERNORS ASKED TO STEM COSTLY RACKET

A $16 BILLION COST CITED AS IMPETUS TO ATTACK THIEVERY

Sen. Alan Bible (D-Nev.) has called on the nation's governors to push for enactment of new state laws to control fencing, the criminal redistribution system supporting the $16 billion cost that American businesses pay yearly for property crime thievery.

The senator cited the $1½-billion cargo thievery losses from truck, rail, air and maritime shipping every year as "an excellent starting point."

In letters to 49 governors and governors-elect, the Nevada senator urged that they recommend a new law to their 1973 legislatures patterned after his treble-damage civil remedy bill. California adopted the Bible approach last August when Gov. Ronald Reagan signed a law making individuals who steal, receive, or sell stolen property liable in civil damages to pay the victim three times the loss value.

"Without a fence to purchase stolen goods, thievery becomes practically a meaningless profitless act," Sen. Bible wrote the governors. "If a thief does not have a buyer or a fence to resell the billions of dollars' worth of commodities stolen annually, that 'hot cargo' is more difficult to disperse profitably. Major thievery will not decline until the profit is taken out of it by putting the purchaser of stolen goods out of business by drying up his market."

As chairman of the Senate Small Business Committee investigating business crime and transportation thievery for three years, Sen. Bible said his federal proposal, passed 81 to 0 by the Senate last September, dealt with the "interstate shipment theft problem only." The measure was not voted on in the House.

The measure was supported by American Trucking Associations, the Association of American Railroads, other national transportation and business interests, and the Nixon Administration.

"To curb fencing activities within the states themselves, we need comparable laws there to close the whole door by stopping intrastate thieves," Sen. Bible said.

"We will push for early congressional enactment in 1973. After all, the $16 billion that property crimes cost business each year is passed along to the consumers by crime-inflated prices."

In his letter to the governors, Sen. Bible had high praiser for Attorney General Richard Kleindienst's proposal calling for establishment of federal-state-local law enforcement liaison committees in every state to combat the criminal fencing system and related business crime problems. He urged the governors to "lend your cooperation toward achieving this most important goal."

The Justice Department proposal, which has gone to U.S. Attorneys in all states, was a recommendation of the Senate Small Business Committee's investigatory report on trucking theft and hijacking last summer.

Sen. Bible told the governors that "establishment of a permanent federal-state law enforcement committee within your state, comprised by key state law enforcement officials and appropriate federal representatives, could do much to achieve a continuing coordinated effort, particularly in those areas of criminal law enforcement where the states and the federal government share concurrent jurisdiction."

"Because state and local law enforcement officers are the real backbone of our country's efforts to control crime in all its forms, and because out there is where the action is," Sen. Bible said, "I heartily support this effort since an active local-state-federal anti-crime coordinating and liaison group in every state can provide an outstanding nucleus for service in many ways to stop the criminal preying on every American, either through physical injury, by direct thievery, or by indirectly paying crime-inflated prices."

[From Transport Topics, Dec. 25, 1972]

DEPROFIT THIEVERY

No single answer is going to solve the terrible problem of thefts from transportation companies and other businesses, but the proposal of Sen. Alan Bible (D-Nev.) will certainly go a long way toward achieving a solution.

In recommending new laws and penalties for fencing stolen property, Sen. Bible has targeted a key motive for stealing goods—their convertibility to cash. There can be little question that the receiver of stolen goods is usually as much responsible for the crime as the thief, himself, because much that is stolen is personally useless to the crook.

The individuals operating as fences are often "white collar" types—operators of businesses, job holders and such. Many have conducted their illegitimate enterprises with little or no trouble from law enforcement officials and their profit margins are enormous.

Receivers of "hot" merchandise can usually tell its source by the price and the manner in which it is offered. The potential profit will blind them to all but the severest penalties. The civil liabilities proposed in the Bible measure should make potential recipients of stolen goods reluctant to do so. It will definitely place the receiver in a position to lose much more than he can gain.

Inability to liquidate stolen property will make the role of the thief more difficult. The goods are incriminating and the longer he has to hold them the more vulnerable he becomes.

Sen. Bible has attained great familiarity with the problem while serving for the last three years as chairman of the Small Business Committee. Investigations by this group brought out that the small businessman is the prime victim of industrial thefts.

He obtained Senate approval of a bill dealing with the problem, but the legislation was not acted upon by the House. The bill, moreover, would deal only with thefts from interstate commerce and Sen. Bible is eager to have the states adopt similar measures.

The approach he has taken seems practical and effective. It deserves the support of all elements of the transportation industry.

By Mr. FONG (for himself and Mr. FANNIN):

S.J. Res. 48. A joint resolution to establish a National Commission on Social Security. Referred to the Committee on Finance.

Mr. FONG. Mr. President, Senator FANNIN and I today are introducing Senate Joint Resolution 48 which sets forth our proposal to create a permanent, independent, bipartisan National Social Security Commission.

We do so out of our conviction that the magnitude of the social security system and its individual impact on every man, woman, and child in America, directly and indirectly, as well as on millions yet unborn, demands no less than constant review of how it serves or could serve our people.

Independent of either administrative or legislative responsibilities, the National Social Security Commission would serve as a bipartisan watchdog on behalf of the people. It would be of great assistance to the Congress and to the administration in their respective and joint efforts to strengthen social security's ability to serve all Americans.

The National Social Security Commission would be charged with continuous review of social security's effectiveness. Included in such review would be:

First. Imaginative consideration of innovations which may strengthen the system's ability to help provide decent economic and health security for its beneficiaries without excessive tax burdens on wage earners and their employers;

Second. Persistent analysis of inequities within the system which may affect substantial numbers of its participants;

Third. Positive assurances of the system's fiscal integrity and its ability always to meet its obligations, and

Fourth. Careful determination of the system's possible effects, positive or negative, on other elements in our society, both private and public, through which Americans strive for economic well-being.

We urge prompt approval of Senate Joint Resolution 48 by the Senate, the House of Representatives, and the President as a demonstration of congressional and administration concern for the day to day impact of the Social Security Act on all Americans and as a joint reassurance of intent that this impact will be of maximum benefit to all.

As we make this appeal, we give full recognition to the long record of excellent administration of social security by the Department of Health, Education, and Welfare. No less important has been the distinguished work of the Senate Committee on Finance and the House Committee on Ways and Means. In no way would the independent National Social Security Commission diminish or derogate their responsibilities. On the contrary, it would be a new and valuable source of help to them.

Under Senate Joint Resolution 48, the National Social Security Commission will have a continuing responsibility to study, investigate, and review the Federal old-age, survivors, and disability insurance program and the health insurance programs which operate under authority of the Social Security Act.

At present the Social Security Act provides for such an overview by the Advisory Council on Social Security, but only on an intermittent basis. Under the resolution being offered by Senator FANNIN and myself, the latter would be replaced by the full-time National Social Security Commission.

To rely for such important studies on an advisory council, which holds a limited number of meetings during 1 year out of 4, as is now the case, is unfair to the American people, the Congress and the President. The almost inevitable dependence on the social security program's administrative agency by such a part-time panel, no matter how distinguished its membership, also leaves much to be desired.

Social security is too important, too big to be the object of part-time review.

If the interests of the people are to be safeguarded, a constant overview, independent of its administrators, is needed—not on a part-time, intermittent basis, but offering full-time surveillance. This is the intent and purpose of the National Social Security Commission to be created by the resolution Senator FANNIN and I are introducing today.

The importance of the Commission's work, as set forth in the resolution, is underscored by the manner of appointment of its nine members and the provision that the Commission shall be bipartisan.

The Commission Chairman and four members will be appointed, on a bipartisan basis, by the President with the advice and consent of the Senate. Two members each, no more than one from a single political party, will be appointed

by the President pro tempore of the Senate and the Speaker of the House.

Members of the Commission shall be individuals of recognized standing and distinction who have demonstrated capacity to discharge the great responsibility which the resolution places upon it.

The Commission membership unquestionably should include men or women recognized as authorities in the fields of actuarial science, economics, and other disciplines.

The National Social Security Commission, in short, should be a blue-ribbon panel capable of responding imaginatively and effectively to both specific and broad ramifications of social security. It should be staffed by persons able to give continuous attention to these ramifications.

In my earlier call for an independent, bipartisan Commission, I have pointed out that social security in many respects is the biggest business in America. Old-age, survivors and disability insurance and health insurance payments to approximately 30 million persons during 1973 will exceed $60 billion. Over 90 percent of the American people are covered. Everyone directly or indirectly participates in its financing.

These statistics alone suggest the importance of independent review by experts serving an ombudsman role on behalf of all the people.

The implications of social security, however, go far beyond the dollars in benefits and the taxes paid to provide such benefits. The system affects all efforts of individual Americans and groups to provide for economic security. It has an effect on private pensions, individual insurance and savings, health care patterns, and on employment and retirement practices in our land.

At no time has there been an authoritative review of all of these elements which affect social security or are affected by it. I believe it is high time that we look at these questions. An independent, bi-partisan National Social Security Commission would be expected to include these questions in its deliberations, investigations and reports to the people, the Congress and the President.

Pertinent to our purposes in introducing Senate Joint Resolution 48 are hearings currently in progress by the Senate Special Committee on Aging under chairmanship of the distinguished senior Senator from Idaho, FRANK CHURCH. The subject of these hearings is "Future Directions in Social Security."

I applaud Senator CHURCH's decision to initiate such hearings and the excellence of the testimony presented in the first three sessions.

Witnesses so far have been Social Security Commissioner Robert M. Ball; Nelson Cruikshank, president, National Council of Senior Citizens; John A. Brittain, Brookings Institution economic studies program; J. Douglas Brown, provost and dean emeritus, Princeton University; and William L. Mitchell, former Social Security Commissioner and consultant to National Retired Teachers Association-American Association of Retired Persons. Each has made a contribution to our knowledge and understanding of differing points of view regarding social security's future.

I anticipate that when this series of important hearings has been completed, we will have a valuable base on which the National Social Security Commission can build.

I hope and trust that every member of the Congress will give close attention to the hearings conducted under chairmanship of Senator CHURCH. But recognition must be given to the fact that with a program so big as social security there are constant tides which affect its operation and the needs of people whom it would serve.

Through the National Social Security Commission we would provide a new and important assurance to all the people that these tides, in their ebb and flow, will be given constant consideration.

Senator FANNIN and I invite our colleagues to join us in sponsoring this resolution. Members desiring to cosponsor the resolution should contact my office.

I ask unanimous consent that the text of the joint resolution be printed at the conclusion of my remarks and those by my colleague, Senator FANNIN, which are to follow.

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

Mr. FANNIN. Mr. President, I want to join my distinguished colleague in introducing this resolution and urging its approval.

Senator FONG is to be commended for his leadership in recognizing the need for a National Social Security Commission. His active and energetic participation as a leading member of the Senate Special Committee on Aging has given him a unique view of the future of the social security program and the challenges it will face.

This resolution is a product of his experience and his fundamental belief concerning the increasing need for understanding the social security program. For that reason, it is an important proposal worthy of the Senate's approval.

This proposal, Mr. President, comes at a most opportune time. All of us, I am sure, have recently encountered significant criticisms of the social security program. Some have questioned the effectiveness of programs covered under social security, especially the medicare and medicaid programs. Of more serious concern, however, have been the recent attacks on the heart of the social security system, its method of financing. In this case, complaints have been heard concerning the regressive nature of the payroll tax and the recent increases in the amount of the payroll deduction itself. These matters, as well as others, are not to be taken lightly and must be carefully studied and evaluated.

When 91 percent of the elderly either receive or are eligible to receive social security benefits and when most of the working force contributes to the program, it makes good sense to provide a permanent citizen commission, along with the constituted administrative and legislative agencies, to review and direct social security. In my estimation, by including within the process by which we administer and legislate social security a commission of the type Senator FONG and I are advocating, we will have strengthened our capacity to deal with the social security program, and in doing so assure its success.

The commission which Senator FONG and I are sponsoring would contribute much to furthering our understanding of social security and its future directions. And, again, I urge the Senate to join with us in sponsoring this legislation, as I think it is a commendable proposal.

EXHIBIT 1

S.J. RES. 48

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(b)(1) The Commission shall consist of—

(A) 5 members to be appointed by the President, by and with the advice and consent of the Senate, one of which members shall, at the time of appointment, be designated as Chairman of the Commission;

(B) 2 members to be appointed by the Speaker of the House of Representatives; and

(C) 2 members to be appointed by the President pro tempore of the Senate.

(2) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate, be members of the same political party.

(3) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess demonstrated capacity to discharge the duties imposed on the Commission. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(4) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(5) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(6) Members of the Commission shall be appointed for a term of 4 years.

(7) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(c) Members of the Commission shall receive $138.00 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(d) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; except that meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

SEC. 2. (a) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(1) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(2) the health insurance programs established by title XVIII of such Act.

(b) Such study, investigation, and review of such programs shall include (but not be limited to)—

(1) the fiscal status of the trust funds es-

tablished for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(2) the scope of coverage, the adequacy of benefits, and the conditions of qualification for benefits provided by such programs;

(3) the impact of such programs on, and their relation to, public assistance programs, non-governmental pension and insurance programs, other governmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(4) the quality of the administration of such programs;

(5) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured under such programs.

SEC. 3. The Commission shall submit an annual report of its study, investigation, and review, of programs (referred to in section 2), together with its recommendations with respect to such programs, to the President and to the Congress. In addition, the Commission shall, at such times as it deems appropriate, submit to the Secretary of Health, Education, and Welfare, reports on, and recommendations with respect to, such programs.

SEC. 4. (a) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(b) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 5. In carrying out its duties under this Joint Resolution, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this Joint Resolution, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

SEC. 6. The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this Joint Resolution. Upon request of the Chairman of the Commission, any such department or agency shall furnish such information to the Commission.

SEC. 7. The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the preceding provisions of this Joint Resolution.

SEC. 9. It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act), to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

SEC. 10. Section 706 of the Social Security Act (relating to appointment of Advisory Council on Social Security) is hereby repealed.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 40

At his own request, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 40, to improve and implement procedures for fiscal controls in the U.S. Government, and for other purposes.

S. 190

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 190, for the relief of the widow and children of Thomas Pillifant.

S. 192

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 192, to convey the interest of the United States and certain property in Fairbanks, Alaska, to Hilcrest, Inc.

S. 204

WILLIAMS COSPONSORS BILL TO AID SMALL FARMER

Mr. WILLIAMS. Mr. President, I am most pleased to join Senator BAYH in sponsoring S. 204, the Family Farm Inheritance Act. Senator BAYH's legislation intends to ease a most difficult burden involved in sustaining a family farm—the inheritance tax.

Too frequently, the inheritance tax on farm property is confiscatory and forces the surviving members of the family to sell the property. In New Jersey, recent figures indicate that one farm is lost each day. Undoubtedly, the difficulties associated with inheritance taxes are involved in the figuring which leads up to this loss.

In terms of production, the loss of one farm means the loss of approximately 110 acres of land in New Jersey that had been used in the production of vegetables, eggs, milk, and other essentials to our daily diet.

S. 204 excludes the first $200,000 in value of the family farm from the taxable estate of a farmer who has managed his own farm during his life and has willed it to relatives who also plan to manage it. Conditions are included so that the farm remains in the family and so that the relatives who inherit it manage and reside on the farm.

Senator BAYH has approached the problem of massive decreases in the number of small farms wisely and realistically. I believe that this approach will indeed ease the tax burden on people who inherit a farm and thereby encourage or enable them to retain the farm and keep it solvent.

As I have mentioned, the loss of small farms is a serious problem in my State. Being the most densely populated State in the Union, New Jersey experiences, on a daily basis, tremendous pressure to convert farmland into developed area. In this regard, the Newark Star-Ledger recently published an editorial, entitled "Disappearing Farms," which discusses the difficulties facing those people who hope to retain their farmland.

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

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

DISAPPEARING FARMS

New Jersey, warns Agriculture Secretary Phillip Alampi, is losing farms at an alarming rate of one per day. This works out to a loss of approximately 110 acres daily of land that had been used in the production of vegetables, eggs, milk and other essentials of a balanced diet.

We share Mr. Alampi's concern, and we are impressed by the numbers he cites to bolster his case.

"We have," the agriculture secretary states, "the biggest segment of our economy made up of agriculture and the food industry: 1,122 food processors, with 22 per cent of all their raw products coming from Jersey farms."

A commission has been established by Governor Cahill's administration to look into the problem of dwindling farmland and is scheduled to issue recommendations on January 3 on what the state can do to prevent further losses of agricultural reserves.

The commission faces a difficult job. New Jersey is a land-poor state and developers are willing to pay increasingly large sums for acreage. Then, too, farming is a risky venture, entailing long hours of hard work and the possibility that heavy rains or lengthy dry spells can destroy the crops in any given year.

Programs to help the farmer have not been especially successful, despite the expenditure of billions of dollars annually by the federal government. Farms continue to disappear, not only in New Jersey but throughout the nation, while the outlay for subsidies mounts and the cost of farm products rises.

We wonder if the commission can develop a program that will preserve farmlands without imposing excessive costs on the state's taxpayers. If the recommendations can achieve this, there is no reason why they should not be implemented.

S. 214

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 214, relating to the appointment of U.S. marshals.

S. 429

At the request of Mr. ROBERT C. BYRD for Mr. MAGNUSON, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 429, the Child Dental Health Act of 1973.

S. 459

At the request of Mr. TALMADGE, the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. COOK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maryland (Mr. MATHIAS), and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 459, to require the Secretary of Agriculture to carry out a rural environmental assistance program.

S. 516

At the request of Mr. ROBERT C. BYRD, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 516, a bill to amend title VI of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a 4-year term for the appointment of the Director of the Federal Bureau of Investigation.

S. 518

At his own request, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was added as a cosponsor of S. 518, 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.

S. 576

At the request of Mr. DOMINICK, the Senator from New Mexico (Mr. DOMENICI), the Senator from Georgia (Mr. TALMADGE), and the Senator from Oklahoma (Mr. BARTLETT) were added as cosponsors of S. 576, a bill providing for separate offense and consecutive sentencing in felonies involving the use of a firearm.

S. 576

Mr. DOMENICI. Mr. President, I am pleased to join with the distinguished Senator from Colorado (Mr. DOMINICK) in sponsoring S. 576, a bill to amend the Gun Control Act of 1968 to provide for separate offenses and consecutive sentencing in felonies involving the use of a firearm.

I believe it is time for us to make it harder on those who use guns illegally in order to allow our good, law-abiding citizens the right and privilege to keep and use firearms for legal purposes.

The need for such legislation is no more visibly demonstrated than by the senseless and brutal crime perpetrated on a fellow U.S. Senator here in this city of Washington Tuesday evening. Senator STENNIS was robbed on the street outside his home; he offered no resistance to the robbers, yet they used firearms in the commission of their crime.

If one who has already determined to commit a crime knows that the penalty for that crime will be no more severe if a firearm is used, he has no reason to refrain from use of the gun. That serious defect in our criminal laws needs to be rectified.

Capt. James A. LaRue, president of the New Mexico Sheriffs and Police Association has told me:

None of us are enthusiastic about controlling guns. What we must do is regulate the use of those guns by prohibiting their illegal use.

I believe all policemen in New Mexico would favor a provision for separate offenses and consecutive sentences in felonies involving the use of firearms. This amendment would attack the problem where it is most serious.

I agree.

SENATE JOINT RESOLUTION 10

At the request of Mr. SCHWEIKER, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of Senate Joint Resolution 10, the school prayer amendment.

EXTENSION OF AUTHORIZATION FOR PROGRAMS UNDER THE ECONOMIC OPPORTUNITY ACT OF 1964—AMENDMENT

AMENDMENT NO. 5

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

AN AMENDMENT TO ESTABLISH A NATIONAL LEGAL SERVICES CORPORATION

Mr. MONDALE. Mr. President, on behalf of myself, and Senators CRANSTON, KENNEDY, WILLIAMS, and JACKSON, I submit for printing and appropriate reference an amendment to S. 706, which I submitted earlier today.

This amendment, known as the National Legal Services Corporation Act, is designed to assure that legal representation for the poor will be independent and free of politics, and also responsive to the communities it must serve. This legislation has been developed jointly by all those sponsoring the introduction of this proposal today.

In its basic provisions, this amendment is essentially similar to the provisions contained in section 27 of the conference report to accompany H.R. 12350, Report No. 92–1246, of July 26, 1972.

In particular, the composition of the Board of Directors of the Corporation conforms to that which emerged from the conference committee which considered this legislation last year. The President appoints all members of the Board of Directors, by and with the advice and consent of the Senate.

Ten of these appointees are from the general public, and of the remaining nine members:

Five members must be representative of the organized bar and legal education—respecting whom the American Bar Association, the American Trial Lawyers Association, the Association of American Law Schools, the National Bar Association, and the National Legal Aid and Defender Association may submit recommendations to the President.

Two members must be from among individuals eligible for assistance under the act—regarding whom the Clients Advisory Council created by the act may submit recommendations to the President.

Two members must be from among former legal services project attorneys—regarding whom the Project Attorneys Advisory Council created by the act may submit recommendations to the President.

Other provisions of the amendment are also designed to insure that the Corporation meets the twin tests of independence and accountability.

There are strong prohibitions against conflicts of interest on the part of any Board member.

The Executive Director of the Corporation is limited to a 6-year term.

Congress provides yearly appropriations. The legislation would authorize appropriations of $121.5 million for fiscal year 1974 and $171.5 million for fiscal year 1975 for the Corporation. The present appropriations level for legal services programs is $71.5 million, with a similar amount included in the President's fiscal 1974 budget request.

GAO has full audit authority, and annual independent audits are required.

Continuing oversight of program operations can be carried out by the appropriate committees.

In these and many other provisions, the legislation we are submitting provides for a responsible Legal Services Corporation.

Of even greater importance is the need for an independent Corporation, free from the political pressures which in the past have often hampered the operations of individual legal services programs around the Nation.

Mr. President, Jerome B. Falk, Jr., and Stuart R. Pollack, writing in a recent issue of the American Bar Association Journal, have accurately balanced the interests which the amendment we are submitting seeks to preserve.

There is no dispute as to the propriety—or, indeed, the necessity—of ensuring that attorneys operating with public funds comply with the highest professional standards and with the guidelines of the legal services program. . . . But it is also imperative that those to whom the attorneys account respect the relationship between the legal services attorneys and their clients, grant appropriate latitude for the exercise of independent professional judgment, and most important, assure that there is insulation from undue political pressures from those whose interests are adverse to the interests of the attorneys' clients.

The amendment we are submitting is designed to assure that the poor gain effective and ongoing legal representation, and that the Corporation representing them meets the highest standards of the legal profession.

Mr. President, I ask unanimous consent that the full text of this amendment and two recent articles on the legal services program, be printed at this point in the RECORD.

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

AMENDMENT NO. 5

Add the following sections at the end thereof:

SEC. 3. (a) The Economic Opportunity Act of 1964 is further amended by adding at the end thereof the following new title:

"TITLE IX—NATIONAL LEGAL SERVICES CORPORATION

"DECLARATION OF POLICY

"SEC. 901. The Congress hereby finds and declares that—

"(1) it is in the public interest to provide greater access to attorneys and appropriate institutions for the orderly resolution of grievances and the peaceful settlement of disputes within the system of justice;

"(2) many low-income persons are unable to afford the cost of legal services or of access to appropriate institutions;

"(3) access to legal services and appropriate institutions for all citizens of the United States not only is a matter of private and local concern, but also is of appropriate and important concern to the Federal Government;

"(4) the integrity of the attorney-client relationship and of the adversary system of justice in the United States require that there be no political interference with the provision and performance of legal services;

"(5) existing legal services programs have provided economical, effective, and comprehensive legal services to the client community so as to bring about the peaceful settlement of disputes within the system of justice; and

"(6) a private nonprofit corporation should be created to encourage the availability of legal services and legal institutions to all citizens of the United States, free from extraneous interference and control.

"ESTABLISHMENT OF CORPORATION

"SEC. 902. (a) There is established a nonprofit corporation, to be known as the 'National Legal Services Corporation' (hereinafter referred to as the 'Corporation') which shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this title, and, to the extent consistent with this title, to the District of Columbia Nonprofit Corporation Act. The right to repeal, alter, or amend this title is expressly reserved.

"(b) No part of the net earnings of the Corporation shall inure to the benefit of any private person.

"(c) The Corporation, and legal services programs assisted by the Corporation, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 or as an organization described in section 501(c)(33) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code.

"PROCESS OF INCORPORATION AND ORGANIZATION

"SEC. 903. (a) There shall be a transition period following the date of enactment of the National Legal Services Corporation Act of 1973 for the process of incorporation and initial organization of the Corporation.

"(b) There is established an incorporating trusteeship composed of the following persons or their designees: the president of the American Bar Association, the president of the Association of American Law Schools, the president of the American Trial Lawyers Association, the president of the National Bar Association, and the president of the National Legal Aid and Defender Association. The incorporating trusteeship shall meet within thirty days after the enactment of the National Legal Services Corporation Act of 1973 to carry out the provisions of this section.

"(c)(1) Not later than sixty days after the enactment of the National Legal Services Corporation Act of 1973, the incorporating trusteeship, after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title, shall establish the initial Clients Advisory Council to be composed of eleven members selected, in accordance with procedures, which meet the requirements of section 905(a)(2), established by the incorporating trusteeship, from among individuals eligible for assistance under this title.

"(2) Not later than sixty days after the enactment of the National Legal Services Corporation Act of 1973, the incorporating trusteeship, after consulting with and receiving the recommendations of associations of attorneys actively engaged in conducting legal services programs, shall establish the initial Project Attorneys Advisory Council to be composed of eleven members selected, in accordance with procedures, which meet the requirements of section 905(b)(2), established by the incorporating trusteeship, from among attorneys who are actively engaged in providing legal services under any existing legal services program.

"(3) To assist in carrying out the provisions of this subsection, the Director of the Office of Economic Opportunity shall compile a list of all legal services programs publicly funded during the fiscal year ending June 30, 1971, and the three subsequent fiscal years and furnish such list to the incorporating trusteeship. In order to carry out the provisions of this subsection, the Director of the Office of Economic Opportunity shall make available to the incorporating trusteeship such administrative services and financial and other resources as it may require.

"(d) Not later than ninety days after the enactment of the National Legal Services Corporation Act of 1973, all recommendations as provided in section 904(a) for persons to serve on the initial board of directors shall be submitted to the President.

"(c) During the ninety-day period of incorporation of the Corporation the incorporating trusteeship shall take whatever actions are necessary to incorporate the Corporation, including the filing of articles of incorporation under the District of Columbia Nonprofit Corporation Act, and to prepare for the first meeting of the board of directors, except for the selection of the executive director of the Corporation.

"(f) The responsibilities of the incorporating trusteeship shall terminate upon the first meeting of the board of directors, such meeting to occur following appointment of all members of such board.

"(g) During the ninety-day period immediately following the meeting referred to in subsection (f) of this section, the board shall take whatever action is necessary to prepare to begin to carry out the activities of the Corporation pursuant to section 906 of this Act.

"DIRECTORS AND OFFICERS

"SEC. 904. (a) The Corporation shall have a board of directors consisting of nineteen individuals appointed by the President, by and with the consent of the Senate, one of whom shall be elected annually by a majority vote of the board to serve as chairman. Members of the board shall be appointed as follows: (1) ten members shall be appointed from among individuals in the general public, not less than six of whom shall be members of the bar of the highest court of a State; (2) five members who are representative of the organized bar and legal education; (3) two members from among individuals eligible for assistance under this title; and (4) two members from among former legal services project attorneys. The American Bar Association, the Association of American Law Schools, the American Trial Lawyers Association, the National Bar Association, and the National Legal Aid and Defender Association may submit recommendations to the President with respect to members to be appointed as provided in clause (2), the Clients Advisory Council may submit recommendations to the President, with respect to members to be appointed as provided in clause (3), and the Project Attorneys Advisory Council may submit recommendations to the President with respect to members to be appointed as provided in clause (4).

"(b) The directors appointed under subsection (a) shall be appointed for terms of three years except that—

"(1) the terms of the directors first taking office shall be effective on the ninety-first day after the enactment of the National Legal Services Corporation Act of 1973;

"(2) the terms of the directors first taking office shall expire, as designated by the President at the time of appointment, as follows—

"(A) in the case of directors appointed under clause (1) of section 904(a), three at the end of three years, four at the end of two years, and three at the end of one year;

"(B) in the case of directors appointed under clause (2), of section 904(a), two at the end of three years, one at the end of two years, and two at the end of one year;

"(C) in the case of directors appointed under clause (3) of section 904(a), one at the end of three years and one at the end of one year;

"(D) in the case of directors appointed under clause (4) of section 904(a), one at the end of three years and one at the end of two years; and

"(3) any director appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(c) The Corporation shall have an executive director, who shall be a member of the legal profession, and such other officers, as may be named and appointed by the board of directors at rates of compensation fixed by the board, who shall serve at the pleasure of the board. No individual shall serve as executive director of the Corporation for a period in excess of six years. The executive director shall serve as a member of the board ex officio and shall serve without a vote.

"(d) No political test or qualification shall be used in selecting, appointing, or promoting any officer, attorney, or employee of the Corporation. No officers or employees of the Corporation shall receive any salary from any source other than the Corporation during the period of employment by the Corporation.

"(e) All meetings of the board, executive committee of the board, and advisory councils shall, whenever appropriate, be open to the public, and proper notice of such meetings shall be provided to interested parties and the public a reasonable time prior to such meetings.

"(f)(1) No person who is a paid employee or consultant of the Corporation or of any grantee of the Corporation may serve on the board of directors.

"(2) No member of the board may participate in any decision, action, or recommendation with respect to any matter which directly benefits that member or any firm or organization with which that member is then currently associated.

"(g) The board, in consultation with the respective advisory councils, shall provide for rules with respect to meetings of the Clients Advisory Council and the Project Attorneys Advisory Council.

"ADVISORY COUNCILS; EXECUTIVE COMMITTEE

"SEC. 905. (a) The board, after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title, shall provide for the selection of a Clients Advisory Council subsequent to the first such council established under section 903(c)(1) to be composed of not more than eleven members selected in accordance with procedures established by the board, including terms of office, qualifications, and method of selection and appointment, from among individuals who are eligible for assistance under this title.

"(2) Procedures for selecting the Clients Advisory Council must insure that all areas of the country and significant segments of the client population are represented, and in no event may more than one representative on such council be from any one State. The Clients Advisory Council shall advise the board of directors and the executive director on policy matters relating to the needs of the client community and may act as liaison between the client community and legal services programs through such activities as it deems appropriate, including informational programs in languages other than English. The Clients Advisory Council may submit to the President recommendations as provided in section 904(a) for persons to serve on the board of directors.

"(b) The board, after consulting with and receiving the recommendations of associations of attorneys actively engaged in conducting legal services programs, shall provide for the selection of a Project Attorneys Advisory Council subsequent to the first such council established under section 903(c)(2) of this title to be composed of not more than eleven members selected in accordance with procedures established by the board, including terms of office, qualifications, and

method of selection and appointment, from among attorneys who are actively engaged in providing legal services under this title.

"(2) Procedures for selecting members of the Project Attorneys Advisory Council must insure that all areas of the country are represented, and in no event may more than one representative on such council be from any one State. The Project Attorneys Advisory Council shall advise the board of directors and the executive director on policy matters relating to the furnishing of legal services to members of the client community. The Project Attorneys Advisory Council may submit to the President recommendations as provided in section 904(a) for persons to serve on the board of directors.

"(c) The board shall provide for sufficient resources for each Advisory Council in order to pay such reasonable travel costs and expenses as the board may determine.

"(d) The board may establish an executive committee of five members of the board, which shall include the chairman of the board, and at least one director appointed pursuant to clause (2) of section 904(a), and one appointed pursuant to clause (3) or (4) of such section. Not less than three of the members of the executive committee shall be from among those members of the board appointed pursuant to clause (1) of section 904(a) of this title. The chairman of the board shall serve as the chairman of the executive committee. The chairman of the executive committee may designate another member of the executive committee to act in his absence. The executive director of the Corporation shall serve as an ex officio nonvoting member of the executive committee.

"ACTIVITIES AND POWERS OF THE CORPORATION

"SEC. 906. (a) Effective ninety days after the date of the meeting referred to in section 903(f), in order to carry out the purposes of this title, the Corporation is authorized to—

"(1) provide financial assistance to qualified programs furnishing legal services to members of the client community;

"(2) provide financial assistance to pay the costs of contracts or other agreements made pursuant to section 903 of this title;

"(3) carry out research, training, technical assistance, experimental, legal paraprofessional and clinical assistance programs, and special emphasis programs to provide legal services to migrant or seasonal farmworkers, Indians, and the elderly poor;

"(4) through financial assistance and other means, increase opportunities for legal education among individuals who are members of a minority group or who are economically disadvantaged;

"(5) provide for the collection and dissemination of information designed to coordinate and evaluate the effectiveness of the activities and programs for legal services in various parts of the country;

"(6) offer advice and assistance to all programs providing legal services and legal assistance to the client community conducted or assisted by the Federal Government including—

"(A) reviewing all grants and contracts for the provision of legal services to the client community made under other provisions of Federal law by any agency of the Federal Government and making recommendations to the appropriate Federal agency;

"(B) reviewing and making recommendations to the President and Congress concerning any proposal, whether by legislation or executive action, to establish a federally assisted program for the provision of legal services to the client community; and

"(C) upon request of the President, providing training, technical assistance, monitoring, and evaluation services to any federally assisted legal services program;

"(7) establish such procedures and take such other measures as may be necessary to assure that attorneys employed by the Corporation and attorneys paid in whole or in part from funds provided by the Corporation carry out the same duties to their clients and enjoy the same protection from interference as if such an attorney was hired directly by the client, and to assure that such attorneys adhere to the same Code of Professional Responsibility and Canons of Ethics of the American Bar Association as are applicable to other attorneys;

"(8) establish standards of eligibility for the provision of legal services to be rendered by any grantee or contractee of the Corporation with special provision for priority for members of the client community whose means are least adequate to obtain private legal services;

"(9) establish policies consistent with the best standards of the legal profession to assure the integrity, effectiveness, and professional quality of the attorneys providing legal services under this title; and

"(10) prescribe criteria to be used in determining the level of income (considering family size and other relevant factors) which will result in a person's being unable to obtain private legal counsel because of inadequate financial means, and hence a member of the client community; and

"(11) carry on such other activities consistent with the provisions of this title as would further the purposes of this title.

"(b) In the performance of the functions set forth in subsection (a), the Corporation is authorized to—

"(1) make grants, enter into contracts, leases, cooperative agreements, or other transactions, in accordance with bylaws established by the board of directors appropriate to conduct the activities of the Corporation;

"(2) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible, and use, sell, or otherwise dispose of such property for the purpose of carrying out its activities;

"(3) appoint such attorneys and other professional and clerical personnel as may be required and fix their compensation in accordance with the provision of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule rates;

"(4) promulgate regulations containing criteria specifying the manner of approval of applications for grants based upon the following considerations—

"(A) the most economical, effective, and comprehensive delivery of legal services to the client community in both urban and rural areas;

"(B) peaceful settlement of disputes within the system of justice; and

"(C) maximum utilization of the expertise and facilities of organizations presently specializing in the delivery of legal services to the client community

"(5) establish and maintain a law library;

"(6) establish procedures for the conduct of legal services programs assisted by the Corporation containing a requirement that the applicant will give assurances that the program will be supervised by a policy-making board on which the members of the legal profession constitute a majority (except that the Corporation may grant waivers of this requirement in the case of a legal services program which, upon the date of enactment of the National Legal Services Corporation Act of 1973, has a majority of persons who are not lawyers on its policy making board) and members of the client community constitute at least one-third of the members of such board.

"(c) In any case in which services, otherwise authorized, are performed for the Federal Government by the Corporation, the Corporation shall be reimbursed for the cost of such services pursuant to an agreement between the executive director of the Corporation and the head of the agency of the Federal Government concerned.

"(d) The Corporation shall ensure that attorneys employed full time in programs funded by the Corporation refrain from any outside practice of law unless permitted as pro bono publico activity pursuant to guidelines established by the Corporation.

"(e)(1) The Corporation shall establish and publish procedures and guidelines to ensure that no funds or personnel made available by the Corporation shall be used to undertake to influence the passage or defeat of any proposed convention, constitutional amendment, code, statute, executive order, ordinance, regulation, rule, or similar enactment or promulgation considered in any form by any legislative body by representations to such body (or committee or member thereof) or any similar activity except where—

"(A) an attorney representing an eligible member of the client community is requested by such member to make such representation or undertake such activity and such representation or activity is carried out in a manner which does not identify the Corporation or any legal services program assisted by the Corporation with such representation or activity;

"(B) personnel of the Corporation or any legal services program assisted by the Corporation are requested by a legislative body (or committee or member thereof) to make such representation or undertake such activity.

"(2) Procedures and guidelines established by the Corporation under paragraph (1) of this subsection shall ensure that, where applicable, representations or activities permitted under that paragraph are undertaken in a manner which is consistent with the Code of Professional Responsibility and Canons of Ethics of the American Bar Association.

"(3) No funds provided by the Corporation shall be utilized for any activity which is planned and carried out to disrupt the orderly conduct of business by the Congress or State or local legislative bodies, for any demonstration, rally, or picketing aimed at the family or home of a member of a legislative body for the purpose of influencing his actions as a member of that body, and for conducting any campaign of advertising carried on through the commercial media for the purpose of influencing the passage or defeat of legislation.

"(f) The Corporation shall insure that no attorneys or other persons employed by it or employed or engaged in programs funded by the Corporation shall, in any case, solicit the client community or any member of the client community for professional employment; and no funds of the Corporation shall be expended in pursuance of any employment which results from any such solicitation. For the purpose of this subsection, solicitation does not include mere announcement or advertisement, without more, of the fact that the National Legal Services Corporation is in existence and that its services are available to the client community, and does not include any conduct or activity which is permissible under the Code of Professional Responsibility and Canons of Ethics of the American Bar Association governing solicitation and advertising.

"(g) The Corporation shall establish guidelines for consideration of possible appeals to be implemented by each grantee or contractee of the Corporation to insure the efficient utilization of resources. Such guidelines shall in no way interfere with the attorney's responsibilities and obligations under the Canons of Professional Ethics and the Code of Professional Responsibility.

"(h) At a reasonable time prior to the Corporation's approval of any grant or contract application, the Corporation shall notify the State bar association of the State in which the recipient will offer legal services.

Notification shall include a reasonable description of the grant or contract application, and request the State bar association for comments and recommendations on such grant or contract application.

"(i) No funds or personnel made available by the Corporation pursuant to this title shall be used to provide legal services with respect to any criminal proceeding.

"NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION

"SEC. 907. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(b) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as reasonable compensation for services.

"(c) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

"(d)(1) The Corporation shall insure that all employees of the Corporation or of legal services programs assisted by the Corporation, while engaged in activities carried on by the Corporation or by such programs, refrain (A) from any partisan or nonpartisan political activity associated with a candidate for public or party office, and (B) from any voter registration activity other than legal representation in civil judicial or administrative proceedings or in connection with legal advice as to adherence to applicable, local State or Federal registration requirements, and (C) from any activity to provide voters or prospective voters with transportation to the polls. Employees of the Corporation or of legal services programs assisted by the Corporation shall not at any time identify the Corporation or the program assisted by the Corporation with any partisan or nonpartisan political activity associated with a candidate for public or party office.

"(2) Employees of the Corporation shall be deemed to be State or local employees for purposes of chapter 15 of title 5 of the United States Code.

"(3) Legal services programs assisted by the Corporation shall be deemed to be State or local agencies for purposes of clauses (1) and (2) of section 1502(a) of such title.

"(4) The Board of Directors shall set appropriate guidelines for the private political activities of full-time employees of legal services programs assisted by the Corporation.

"(e) The Corporation shall insure that all employees of the Corporation or of legal services programs assisted by the Corporation, while engaged in activities carried on by the Corporation or by such programs, assisted by the Corporation, refrain from participation in, and refrain from encouragement of others to participate in, any of the following activities:

"(1) any illegal demonstration, picketing, boycott, or strike; or

"(2) any form of direct action which is in violation of an outstanding injunction of any Federal, State, or local court; or

"(3) any form of direct action which is designed to involve physical violence, destruction of property, or physical injury to persons.

"(f) The board of directors of the Corporation shall issue rules and regulations to provide for the enforcement of this section, which rules shall include as one available remedy, but not be limited to, provisions, in accordance (as to both employment and assistance) with the types of procedures prescribed in the provisions of section 914 of this Act, for emergency suspension of assistance to a legal services program assisted by the Corporation, summary suspensions of an employee of the Corporation or of any legal services program assisted by the Corporation, and the termination of assistance and employment as deemed appropriate for violations of this section.

"ACCESS TO RECORDS AND DOCUMENTS RELATED TO THE CORPORATION

"SEC. 908. (a) Copies of all records and documents pertinent to each grant and contract made by the Corporation shall be maintained in the principal office of the Corporation in a place readily accessible and open to public inspection during ordinary working hours for a period of at least five years subsequent to the making of such grant or contract.

"(b) Copies of all reports pertinent to the evaluation, inspection, or monitoring of grantees and contractees shall be maintained for a period of at least three years in the principal office of the Corporation subsequent to such evaluation, inspection, or monitoring visit. Upon request, to the extent authorized by the Corporation the substance of such reports shall be furnished to the grantee or contractee who is the subject of the evaluation, inspection, or monitoring visit and may be available for inspection to the President of the United States and Members of Congress.

"(c) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing regulations and guidelines, and it shall publish in the Federal Register on a timely basis all its bylaws, regulations, and guidelines.

"(d) The Corporation shall be subject to the provisions of the Freedom of Information Act.

"FINANCING OF THE CORPORATION

"SEC. 909. In addition to any funds reserved and made available for payment to the Corporation from appropriations for carrying out the Economic Opportunity Act of 1964 for any fiscal year, there are further authorized to be appropriated for payment to the Corporation such sums as may be necessary for any fiscal year. Funds made available to the Corporation from appropriations for any fiscal year shall remain available until expended.

"RECORDS AND AUDIT OF THE CORPORATION AND THE RECIPIENTS OF ASSISTANCE

"SEC. 910. (a) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by any independent licensed public accountant certified or licensed by a regulatory authority of a State or political subdivision. Each such audit shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person conducting the audit, and, upon request, to the President of the United States and to Members of Congress, consistent with the necessity of maintaining the confidentiality required by the best standards of the legal profession, and full facilities for verifying transactions with the balance, or securities held by depositories, fiscal agents, and custodians shall be afforded to any such fiscal agents, and custodians shall be afforded to any such person. The report of each such independent audit shall be included in the annual report required under this title. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the assets and liabilities, and surplus or deficit of the Corporation, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the income and expenses of the Corporation during the year, and a statement of the sources and application of funds, together with the opinion of the independent auditor of those statements.

"(b)(1) The accounts and operations of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States, consistent with the necessity of maintaining the confidentiality required by the best standards of the legal profession. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or used by the Corporation pertaining to its accounts and operations, including the reports pertinent to the evaluation, inspection, or monitoring of grantees and contractors required to be maintained by section 908(b) and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in the possession and custody of the Corporation.

"(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the operations and conditions of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other transaction or undertaking observed in the course of the audit, which in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the executive and to each member of the board at the time submitted to the Congress.

"(c)(1) Each grantee or contractee, other than a recipient of a fixed price contract awarded pursuant to competitive bidding procedures, under this title shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Corporation or any of its duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title. The Comptroller General of the United States, or any of his duly authorized representatives, shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation, consistent wtih the necessity of maintaining the confidentiality required by the best standards of the legal profession.

"REPORTS TO CONGRESS

"SEC. 911. The Corporation shall prepare an annual report for transmittal to the President and the Congress on or before the 30th day of January of each year, summarizing the activities of the Corporation and making such recommendations as it may deem appropriate. This report shall include finding and recommendations concerning the preservation of the attorney-client relationships and adherence to the Code of Professional Responsibility and Canons of Ethics of the American Bar Association in the conduct of programs assisted by the Corpora-

tion. The report shall include a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Corporation, together with the additional views and recommendations, if any, of members of the board.

"DEFINITIONS

"SEC. 912. As used in this title, the term—

"(1) 'State' means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(2) 'Corporation' means the National Legal Services Corporation established pursuant to this title;

"(3) 'client community' means individuals unable to obtain private legal counsel because of inadequate financial means;

"(4) 'member of the client community' includes any person unable to obtain private legal counsel because of inadequate financial means;

"(5) 'legal services' includes legal advice, legal representation, legal research, education concerning legal rights and responsibilities, and similar activities (including, in areas where a significant portion of the client community speaks a language other than English as the predominant language, or is bilingual, services to those members of the client community in the appropriate language other than English);

"(6) 'legal profession' refers to that body composed of all persons admitted to practice before the highest court of at least one State of the United States; and

"(7) 'nonprofit', as applied to any foundation, corporation, or association, no part of the net earnings of which issues, or may lawfully inure to the benefit of any private shareholder or individual.

"PROHIBITION ON FEDERAL CONTROL

"SEC. 913. (a) Except as provided for in subsection (b) of this section, nothing contained in this title shall be deemed to authorize any department, agency, officer, or an employee of the United States to exercise any direction, supervision, or control over the Corporation or any of its grantees or contractees or employees, or over the charter or bylaws of the Corporation, or over the attorneys providing legal services pursuant to this title, or over the members of the client community receiving legal services pursuant to this title.

"(b) Nothing in this section shall be construed as limiting the authority of the Office of Management and Budget or the Office of Economic Opportunity to initiate and to conclude necessary reviews respecting adherence to the provisions of this title, and to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

"(c) Reviews under subsection (b) of this section shall be conducted in accordance with the Code of Professional Responsibility and Canons of Ethics of the American Bar Association governing the confidentiality of the attorney-client relationship.

"SPECIAL LIMITATIONS

"SEC. 914. The board shall prescribe procedures to insure that—

"(1) financial assistance shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, unless the grantee or contractee has been given reasonable notice and opportunity to show cause why such action should not be taken; and

"(2) financial assistance shall not be terminated, an application for refunding shall not be denied, and an emergency suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee or contractee has been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

"COORDINATION

"SEC. 915. The President is authorized to direct that particular support functions of the Federal Government, such as the General Services Administration, the Federal telecommunications system, and other facilities, be utilized by the Corporation or its grantees or contractees to the extent not inconsistent with other applicable law.

"TRANSFER MATTERS

"SEC. 916. (a) Notwithstanding any other provision of law, effective ninety days after the date of the meeting referred to in section 903(f), all rights of the Office of Economic Opportunity to capital equipment in the possession of legal services programs assisted pursuant to sections 222(a)(3), 230, 232, or any other provision, of the Economic Opportunity Act of 1964, shall become the property of the National Legal Services Corporation.

"(b) Effective ninety days after the date of the meeting referred to in section 903(f), all personnel, assets, liabilities, property, and records as determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Director under section 222(a)(3) of this Act shall be transferred to the Corporation. Personnel transferred (except personnel under schedule A of the excepted service) under this subsection shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in classification or compensation for one year after such transfer. The Director shall take whatever action is necessary and reasonable to seek suitable employment for personnel who would otherwise be transferred pursuant to this subsection who do not wish to transfer to the Corporation.

"(c) Collective bargaining agreements in effect on the date of enactment of the National Legal Services Corporation Act of 1973 covering employees transferred pursuant to subsection (b) of this section shall continue to be recognized by the Corporation until altered or amended pursuant to law.

"(d)(1) The Director of the Office of Economic Opportunity shall take such action as may be necessary, in cooperation with the executive director of the National Legal Services Corporation, to arrange for the orderly continuation by such Corporation of financial assistance to legal services programs assisted pursuant to sections 222(a)(3), 230, 232, or any other provision, of the Economic Opportunity Act of 1964. Whenever the Director of the Office of Economic Opportunity determines that an obligation to provide financial assistance pursuant to any contract or grant agreement for such legal services will extend beyond six months after the date of enactment of this Act, he shall include in any such contract or agreement provisions to assure that the obligation to provide such financial assistance may be assumed by the National Legal Services Corporation, subject to such modifications of the terms and conditions of that contract or grant agreement as the Corporation determines to be necessary.

"(2) Effective ninety days after the date of the meeting referred to in section 903(f), section 222(a)(3) of Economic Opportunity Act of 1964 is repealed.

"(3) Notwithstanding any other provision of law, after the enactment of this Act but prior to the enactment of appropriations to carry out the Economic Opportunity Act of 1964 for the fiscal year ending June 30, 1974, the Director of the Office of Economic Opportunity shall, out of appropriations then available to him, make funds available to assist in meeting the organizational expenses of the Corporation and in carrying out its activities.

"(4) Title VI of the Economic Opportunity Act of 1964 is amended by inserting after section 622 thereof the following new section:

"'INDEPENDENCE OF NATIONAL LEGAL SERVICES CORPORATION

"'SEC. 623. Nothing in this Act, except title IX, and no reference to this Act unless such reference refers to title IX, shall be construed to affect the powers and activities of the National Legal Services Corporation.'"

SEC. 4. In addition to the amounts authorized, by section 3(c)(3) of the Economic Opportunity Amendments of 1972, to be appropriated for the purpose of carrying out legal services programs under section 222(a)(3) of the Economic Opportunity Act, there are further authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, for carrying out the legal services program under title IX of the Economic Opportunity Act of 1964, as amended by this Act, and there are authorized to be appropriated $171,500,000 for the fiscal year ending June 30, 1975, for carrying out such program.

SEC. 5. This Act may be cited as the "National Legal Services Corporation Act of 1973".

LEGAL SERVICES PROGRAM: REPLY TO VICE PRESIDENT AGNEW

(By William R. Klaus)

The national legal services program was created only seven years ago. As federal programs go, it has been comparatively small, both in personnel and budget. Nevertheless, this innovative, courageous and historic experiment in social justice aroused substantial commentary and criticism. Controversy has swirled around it, particularly when the vigorous representation of indigent clients interfered with the progress of the powerful. In America, when a federally financed program interfers with powerful people and powerful groups, the repercussions soon resounds in the halls of the Capitol. Reaction came swiftly in a series of political moves to restrict or redirect the program; the battle to maintain independence from political pressure has been continuous.

Through the years, the program has had few champions. It is, after all, a program which helps only poor people. But it is intimately connected with the law, with the American system of jurisprudence as it affects our citizens, and thus it is of immediate concern to lawyers. Lawyers therefore are in the forefront of those who perceive its value. At the national level, that interest is reflected in the activities of the elected leadership of the American Bar Association, which has from the beginning embraced this fledgling program, helping daily to direct it, nurture it and mold it into an effective adjunct to a modern system of justice. One would think that the evidence of its value to the poor community for the last seven years has been so overwhelming as to command complete acceptance for its continuation under its original mandate: "The use of the judicial system and the administrative process to effect changes in laws and institutions which unfairly and adversely affect the poor."[1]

But the battle is never-ending. In the September issue of the *American Bar Association Journal* (page 930), Vice President Agnew criticized the program in a manner which, with all due respect, requires rejoinder: first, because the issues raised must be restated not in current political phraseology but in terms of the professional responsibility of the lawyer to his client and the validity and importance of that obligation in our society; second, because his emphasis on minor imperfections in the program is really an attempt to discredit the whole; and third, because the basic concepts upon which the

[1] Narrative Justification by OEO at Hearings of the Senate Committee on Appropriations, July 20, 1970, page 514.

Bar of the nation has supported the program from its beginning are being seriously challenged in a way that carried to its logical conclusion, would threaten the independence of the entire profession.

The Vice President suggests that the professional independence of the lawyer who is employed to represent the poor should give way to "control at the top", and this control should be exercised to ensure that legal services lawyers are responsible and accountable to the public. The premises underlying this suggestion must be studied with care.

The proposal conflicts with the lawyer's professional independence mandated by the Code of Professional Responsibility, which requires that a lawyer exercise professional judgment without regard to the interests or motives of third persons, be they lay intermediaries or government officials (EC 5–23 and EC 2–28). Add to this the requirement that a lawyer is obligated "to represent his client zealously within the bounds of the law" (EC 7–1). The code knows no distinction between rich and poor clients with respect to the zealousness of representation or to kinds of cases and theories they can press.

And it is this duty of the lawyer, both to his client and to the legal system, which renders so objectionable the Vice President's suggested incursion into the lawyer's independence and professional judgment that it bears quoting: "In our government of laws and not of men, *each* member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and *to present for adjudication any lawful claim, issue, or defense*" (EC 7–1; emphasis added). The suggestion that a censorship be established to determine whether a lawyer representing a low-income client is truly representing the client's interest is incompatible with these provisions. It is even more disturbing to note the lack of confidence in the legal profession and the judiciary that is implicit in this proposal.

Underlying the Vice President's call for greater controls on legal services lawyers are the premises: (a) that as a group they have acted against the best interests of their clients and the nation as a whole, and (b) that bar associations and their representatives on local governing boards and indeed the entire judiciary have failed to prevent this. Neither of these premises is sound, and facts to support them do not appear in the Vice President's article. Indeed, these facts do not exist.

The professional record of legal services lawyers as a group has been exemplary. This record, far from showing that these lawyers have been irresponsible or unresponsive to their clients' needs, shows that they have vigorously and, in the preponderance of cases, successfully represented their indigent clients. There is no support for the innuendo that the program has typically served middle-class dropouts in esoteric legal matters while a "destitute mother of five can't get legal help with an eviction notice". The facts are otherwise. A significant portion of all legal services matters concern housing problems, most of which, in fact, involve eviction. The Vice President would attempt to leave the impression that much of the work of staff attorneys has "nothing to do with poverty and the problems peculiar to the poor". This should be compared with his further contention that the program "expends much of its resources on efforts to change the law on behalf of one social class—the poor".

But the important point is that this suggestion is misleading. In fact, almost 80 per cent of legal services matters deal with four well-recognized poverty law areas; consumer or employment problems, 15.9 per cent; administrative problems (primarily welfare), 11.2 per cent; housing problems, 14.4 per cent; and family problems, 36.6 per cent.[2]

At least 5,000 lawyers have served in the legal services program during its seven years of operation. In any group of lawyers of this size, there will be a few bad apples and a few who engage in conduct or activities which do not meet the highest standards of the profession. But these isolated examples should not be used to condemn a whole segment of the Bar. This obviously is unfair criticism.

An even more disturbing premise underlying the entire article is that courts are not able to judge fairly the merits of cases they hear. Mr. Agnew criticizes the "imaginative use of ever-expanding constitutional concepts" by legal services attorneys in court cases on behalf of the poor. If this truly can be a criticism, it means that the Vice President questions the ability of the courts to decide between well-founded and ill-founded suits. Do we then confer adjudicatory power on another branch of government? Which one?

Another point is similarly perplexing. It is argued that "Instead of resolving the case at the lowest level and earliest opportunity satisfactory to the client, the legal services lawyer is inclined to take it to the highest level possible to win the legal issue and implant the emphatic legal principle he has perceived to be involved." The facts show otherwise. Legal services attorneys resolve the vast majority of matters through advice, referral, negotiation and other dispositions short of litigation 83 per cent in 1971.[3] Thus only 17 per cent of legal aid matters reached the trial court, and only a few of these were appealed. Of course, some cases lost in the trial court are appealed and, if the appeal is successful, reformation of the law might result. But these are relatively few, and it must be remembered that the client lost at the trial level, otherwise there would have been no appeal. Nevertheless, it is implied either that satisfied clients who won have their cases appealed by overenthusiastic lawyers (a very unlikely hypothesis) or that a client always consider any loss in the lower court a satisfactory resolution of his case.

A third implication of the article is that these clients, who happen to be poor individually and as a group, are like sheep—passively led by numerous ideologically misdirected lawyers. This would certainly come as a surprise to the legal services lawyers who have worked with clients in the nation's ghettos, in areas of rural poverty and on Indian reservations, in each of which there is a growing sophistication with the use of the legal process. It would also confound the clients who have felt strongly about the fairness of their claims and have relied on the professional skills of a legal services lawyer only for the development of the legal theory and strategy for dealing with the problem—exactly as more affluent clients do.

THE OBJECTION: A FULL-SERVICE PROGRAM

From its beginning, the objective of the legal services program has been to provide a full range of legal services to the poor. The full-service approach necessarily has resulted in representation of clients with grievances relating to government action or inaction or stemming from laws that operate to oppress the poor. President Nixon, in a statement on August 11, 1969, pointed out the need for this legal representation: "The sluggishness of many institutions—at all levels of society—in responding to the needs of individual citizens is one of the central problems of our time. Disadvantaged persons in particular must be assisted so that they fully understand the lawful means of making their needs known and having their needs met."

The representation of poor clients in cases challenging laws that systematically disadvantage the poor has been loosely termed "law reform." There really is no such thing in the vocabulary of the experienced staff lawyer. To him, there is only the problem of the particular client, be that client an individual or a group. If the ruling produces a needed change in the law and so protects the individual client's interest yet also spreads its effect to others in the poor community, so much the better. Thus, in *Swarb* v. *Lennox*, 405 U.S. 191 (1972), Pennsylvania's oppressive confession of judgment practice was ultimate struck down, as it affected the poor community, by the Supreme Court of the United States, but an injured individual client initiated the action.

In an age of significant government involvement in the lives of individuals, there has been increasing concern in the profession and in society that individuals affected by government action have a legal remedy to protect against the failure of government to follow its own laws or regulations. And legal services lawyers, like other lawyers whose clients are adversely affected by alleged improper government conduct, have asked courts to adjudicate these controversies.

For example, in *Camden Coalition* v. *Nardi*, Camden Regional Legal Services, Inc., representing a coalition of established community groups in this troubled New Jersey city, sued city agencies and officials alleging that the renewal plan presented by the officials of the city to the Department of Housing and Urban Development did not conform to the requirement of the federal statute that there be a "workable program".[4] The statute was intended by Congress to ensure that satisfactory relocation housing be provided to displaced families and to ensure representation of the poor community in these urban renewal programs. This was neither a case of "social engineering" nor an instance of a group of wild-eyed radical lawyers trying to change the world. The issue was a very simple, clear and important one: Did the local government comply with applicable federal law? Is this case not a perfect example of the experienced, informed lawyer in action? Protests began only when the federal court found sufficient merit in the complaint and decided to examine the issue.

These and similar cases have resulted in great political pressure being brought to bear by government officials seeking to interfere with the independence of legal services lawyers in the representation of their clients against government agencies. The American Bar Association has firmly supported the principle embodied in the Code of Professional Responsibility that legal services attorneys should have the independence to represent clients in matters involving government agencies. And these pressures and the response appropriate to the tradition of an independent legal profession were set forth by President Nixon in his message to Congress in May of 1971 requesting the establishment of the National Legal Services Corporation:

Much of the litigation initiated by legal services has placed it in direct conflict with local and state governments. The program is concerned with social issues and is thus subject to unusually strong political pressures. . . . [I]f we are to preserve the strength of the program, we must make it immune from political pressures and make it a permanent part of our system of justice. . . .

The legal problems of the poor are of sufficient scope that we should not restrict the

[2] NATIONAL LEGAL AID DEFENDER ASSOCIATION, 1971 STATISTICS OF LEGAL ASSISTANCE WORK, at iv.

[3] *Ibid.*

[4] Civil No. 1128–70 (D. N.J., filed August 19, 1970).

right of their attorneys to bring any type of civil suit.

The Vice President attacks the program in the broadest of generalities with almost no supporting reference to factual information. His rhetoric is followed by certain conclusions and recommendations. It is surprising, under these circumstances, that his conclusions and recommendations echo those of our Association, which has defended and assisted the program. But this apparent inconsistency results from an entirely different approach.

1. *Strong Central Supervision.* The Bar always has urged that the program be under the direction of a capable lawyer, committed to the precepts of the Code of Professional Responsibility. This supervision is required, not to limit the performance of the lawyers on behalf of their clients but to ensure that programs in diverse parts of the nation maintain a measure of uniformity. A poor Puerto Rican in a New York City ghetto should not receive less vigorous or less effective advocacy than a migrant farmer in Florida or California. This does not mean, however, that the Federal Government should attempt to dictate in detail to local programs. All of us are aware of the threat of federal encroachment upon local and state activities. The programs, once in conformity with federal guidelines, should be left to the suprevision of their own boards of directors, which typically are composed of lawyers appointed by the local bar associations. These boards have almost invariably exercised reasonable and competent supervision over staff lawyers.

2. *Adequate Guidelines and Policies.* The office of the director of the national program published detailed and specific guidelines in early 1966 which were approved by the National Advisory Committee. From time to time that committee has amended the guidelines when necessary. The National Advisory Committee was appointed as a broad-based, policy-making group by the director of OEO at the inception of the program. On the committee are some of the nation's most respected lawyers, both in public and private practice, including the Attorney General of the United States, the general counsels of the OEO and the Department of Health, Education, and Welfare, as well as officers of the American Bar Association, the National Bar Association, the National Legal Aid and Defender Association, the American Trial Lawyers Association and the Association of American Law Schools. Ever since Lewis F. Powell, Jr., as President, led the American Bar Association in its early and vigorous support of the program, all of the Presidents of the American Bar Association, have been active on the advisory committee. It is a most dedicated team of the best minds in the legal profession who have borne their responsibilities with distinction. Yet, for the first time since the inception of the program, the advisory committee has not been convened or consulted on the important questions that arise in the administration of this program. Why?

3. *High Standards of Professional Conduct.* We must affirm the position of the organized Bar that the legal services program be held to the highest standards of ethical conduct and professionalism in zealous, unfettered and competent representation of the clients. This means: (1) that the welfare of the client must come before the rule of law to be established, no matter how important that rule may be to others; (2) that politics has no place in the program (although I submit that OEO lawyers should be permitted to be active for the party of their choice; there is no reason to make political eunuchs of legal services lawyers); (3) that only the poor who qualify under the program's already stringent standards of qualification should be represented; (4) that indigent clients should have their legal problems resolved, whether or not those problems are considered to be in a traditional poverty law area. A lawyer who refuses or otherwise fails to conform to these basic ideals should be discharged, and, conversely, any lawyer who is prevented by his superiors from adhering to these standards must consider whether the Code of Professional Responsibility requires resignation.

The primary objective of this program has been and remains the provision of the same quality for the poor of legal representation that more affluent Americans can obtain within the ranks of the legal profession and, further, to assure that the service rendered is as free from unethical restriction as is that given by other client-paid lawyers who operate under the Code of Professional Responsibility. As a profession, we cannot tolerate a double standard of client representation—one for the disadvantaged and another for the more fortunate.

The national legal services program is a proved experiment in the advancement of justice and equality before the law, an experiment unparalleled in all of our history. Seldom before under our system of law has a highly placed government official questioned the right of citizens to examine governmental motives, acts and omissions before the impartial tribunals of the courts. It is unthinkable that this right should now be denied those who happen to be impoverished. The success of the program in containing injustice and providing effective advocacy clients has brought the present criticism.

It behooves every lawyer, regardless of the area of his practice, to contemplate the long-range effect of any severe curtailment or redirection of the legal services program on the practice of law and the quality of life in the United States in the years to come.

WHAT'S WRONG WITH ATTACKS ON THE LEGAL SERVICES PROGRAM

(By Jerome B. Falk, Jr., and Stuart R. Pollak)

Vice President Agnew's article in the September *Journal* (page 930) combines an attack on the underlying philosophy of the national legal services program with vague accusations of misconduct, excessive professional zeal and misplaced priorities on the part of legal services attorneys throughout the country. William R. Klaus, Chairman of the American Bar Association's Committee on Legal Aid and Indigent Defendants, replied in the November *Journal* (page 1178) to this latest challenge to the underpinnings of a program that has commanded the strong support of the Association since its inception. We wish to take issue with Mr. Agnew's unsupported and largely unspecified criticisms of the conduct of legal services attorneys and programs.

In 1970 the director of the California Office of Economic Opportunity, Lewis K. Uhler, levelled charges at California Rural Legal Assistance, the celebrated legal services program that provides assistance to California's rural poor. The charges purported to support Governor Ronald Reagan's veto of OEO's 1971 grant to C.R.L.A., and the director of the OEO appointed an investigatory commission. As lawyers in private practice, we participated with William F. McCabe as co-counsel to C.R.L.A. We experienced a sense of *déjà vu* in reading Vice President Agnew's allegations, for they might have been lifted bodily from the now infamous Uhler report, *A Study and Evaluation of California Rural Legal Assistance.*

Mr. Agnew's principal accusations are:

There is considerable evidence that this social orientation has led to a widespread attitude on the part of numerous program attorneys that they can take any action regardless of its relationship to the eradication of poverty. As a consequence, program attorneys are and have been heavily involved in every social issue of the day. In Evanston, Illinois, it's draft counseling; in Texas, California, Colorado, Florida and other places, it's underground newspapers; in Boston, it's women's rights; in California, it's the rights of penitentiary inmates; in numerous other places, it's students' rights, antiwar protests, free-speech movements. The list of causes is endless.

But the important thing to note is that they have little or nothing to do with poverty and the problems peculiar to the poor. And equally important, while most programs now turn away individual poor clients with routine legal problems, many nevertheless find time to engage in practically every *cause célèbre* that comes along.

Is this right? Is this what legal services was meant to do? Did Congress in its enactment or the Bar in its support contemplate a program where a destitute mother of five can't get legal help with an eviction notice but a middle-class drop-out can get legal counseling in setting up his underground newspaper? Proponents of this activity by legal services attorneys suggest that these endeavors in fact do serve the interests of the poor in a larger sense. I submit that the conclusion is open to serious doubt

We seriously dispute the accuracy of this sweeping indictment of the national legal services program. It is not possible, of course, to disprove these allegations as to every program and every project attorney throughout the nation. The California experience, however, provides a useful basis for testing the credibility of these broad charges. First, the Uhler accusations against C.R.L.A., were similar, both in tone and content, to the charges Mr. Agnew now levels at the entire national legal service program. Second, the charges against C.R.L.A. appeared (on their face, at least) to be the most serious and the most thoroughly researched and documented of any in the six-year history of the program. Third, each of those charges—and, indeed, the entire C.R.L.A. program—was reviewed in fair, open and comprehensive proceedings by an independent commission of jurists whose impartiality and eminence gives particular credence to their findings.

"BLATANT INDIFFERENCE TO THE NEEDS OF THE POOR"

The Uhler report was a 283-page document, purportedly based on an extensive investigation, and several thousand pages of supporting documents. Sounding themes now echoed by Mr. Agnew, it accused C.R.L.A. attorneys of "a blatant indifference to the needs of the poor . . . [and] a disposition to use their clients as ammunition in their efforts to wage ideological warfare". C.R.L.A. attorneys, it added, "are prone to sue, seek injunctive action, [and] in the vernacular 'do their own thing' . . .". Governor Reagan, in the same vein, publicly branded C.R.L.A. attorneys as "ideological ambulance chasers". While this rhetoric was unquestionably overblown, the Uhler report purported to document its broad allegations with specific charges of misconduct and distorted priorities.

The Reagan veto of C.R.L.A.'s 1971 funding was subject to the statutory power of the OEO director under 12 U.S.C. § 2834 to override the veto. The American Bar Association urged him to do just that, according to John D. Robb, then chairman of the Association's Committee on Legal Aid and Indigent Defendants, as did numerous other responsible leaders and members of the Bar, public officials and interested citizens. OEO's ultimate response was the appointment of a fact-finding commission, composed of three distinguished state supreme court justices: retired Chief Justice Robert Williamson of Maine (chairman), Justice Robert B. Lee of Colorado and retired Chief Justice George R. Currie of Wisconsin.

The commission held hearings throughout California—in San Francisco, Salinas, El Centro, Gilroy, Madera, Santa Rosa, Santa Maria, Modesto, Marysville and even at the correctional training facility at Soledad. It

heard the testimony of 165 witnesses, several more than once. It considered not only the specific accusations of the Uhler report, which numbered more than 120, but additional charges and complaints that were presented during the course of the hearing. The transcript of the proceedings is in excess of 5,000 pages.

Strange as it may seem, Governor Reagan and Mr. Uhler refused to participate directly in the presentation of evidence to the commission. How the commission dealt with this effort to frustrate its work is a story in itself, beyond the scope of this article but to be told in a more detailed chronicle to be published in a forthcoming issue of the *Hastings Law Journal*.

The commission designed procedures intended to permit the fullest exploration of the charges against C.R.L.A. It said of these procedures: "It is the belief of the commission that the procedural rules which guided it through the evidentiary hearings were a valid mechanism by which the truth-finding function of the commission was effectively carried out."

The commission heard the testimony of the first director of OEO, R. Sargent Shriver, and of the first two directors of the legal services program who had served with Mr. Shriver, E. Clinton Bamberger, Jr., and Earl Johnson, Jr., who testified as to the history, purposes and philosophy of the national legal services program. The commission also received the testimony of Mr. Robb, who testified as to the Association's program of evaluating legal services programs such as C.R.L.A. In this regard, the testimony of Jerome J. Shestack, a former chairman of the Section of Individual Rights and Responsibilities, was especially pertinent, as he had participated in the annual evaluation of C.R.L.A. conducted only months before the Reagan veto.

The commission's findings, set forth in a 400-page report issued June 25, 1971, led to the prompt refunding of C.R.L.A. The commission bluntly disposed of the Reagan-Uhler charges:

It should be emphasized that the complaints contained in the Uhler Report and the evidence adduced thereon do not, either taken separately or as a whole, furnish any justification whatsoever for any finding of improper activities by CRLA. . . .

The Commission expressly finds that in many instances the [Uhler report] has taken evidence out of context and misrepresented the facts to support its charges against CRLA. In so doing, the Uhler Report has unfairly and irresponsibly subjected many able, energetic, idealistic and dedicated CRLA attorneys to totally unjustified attacks upon their professional competence.

From the testimony of the witnesses, the exhibits received in evidence and the Commission's evaluation of the documents submitted in support of the charges in the [Uhler report], the Commission finds that the charges were totally irresponsible and without foundation.

The commission concluded with the finding that "CRLA has been discharging its duty to provide legal assistance to the poor . . . in a highly competent, efficient, and exemplary manner." For that reason, it recommended that C.R.L.A. be "continued and refunded."

BETTER CRITICISM THAN VICE PRESIDENT'S IS NEEDED

Vice President Agnew has asked a pertinent question: What is wrong with the legal services program? A close, objective scrutiny of perhaps the most controversial legal services program in the country suggested that precious little was wrong with it, but that a good deal of improvement in the nature of the criticism directed to the program would have been highly desirable. This is not to say, as Vice President Agnew attributes to some "ideologues," that the program is "too sacrosanct even to discuss." But surely it is not too much to ask of lawyers criticising other lawyers that the allegations be fair, precise and accurate.

Judging by the record of C.R.L.A., there are at least three fundamental respects in which Vice President Agnew's sweeping allegations misconstrue the activities of legal services attorneys.

First, he indicates that "much" of the resources of the legal services program are expended "on efforts to change the law on behalf of one social class—the poor". Mr. Agnew does not accurately picture the types of cases on which most legal services attorneys spend most of their time. While C.R.L.A.'s numerous judicial victories against the state and other governmental agencies permitted critics like Mr. Uhler to characterize its work load as the Vice President has characterized that of the national program, the facts are otherwise. According to the Commission, "the overwhelming bulk of C.R.L.A.'s work is handling the routine problems of the poor, known in the parlance of legal assistance attorneys as 'service' cases". The report said:

In fiscal year 1968–69, CRLA handled 15,423 separate legal matters, a yearly average of 429 problems per attorney. . . .

The substantial portion of these matters did not involve litigation. Indeed, in 1969–70, only 8% of the 9,705 cases closed by CRLA attorneys involved a court proceeding, and only 13% an administrative hearing. . . .

As would be expected, the routine matters comprise a large percentage of the matters handled, 95–98% of the total number. Although no exact records are available as to the amount of time spent on the service cases, as opposed to impact cases, the director's estimate of 80% is reasonable.

Certainly there is no justification for the Vice President's implication that it is a common occurrence when "a destitute mother of five can't get legal help with an eviction notice but a middle-class drop-out can get legal counseling in setting up his underground newspaper".

Second, Mr. Agnew erroneously implies that the cases handled by legal services attorneys are nonresponsive to the demands of their clients. He fears "we may be on the way to creating . . . a federally funded system manned by ideological vigilantes . . .". In protecting the attorney-client relationship, he asks, "must we be prohibited from inquiring into the bona fides of action by federally funded attorneys—actions that in many cases bear little relevance to the client's interest but much pertinence to the attorney's ambitions?"

Exactly these accusations were inquired into during the C.R.L.A. hearings. What was shown was that rural farmworkers and others the attorneys serve supported the priorities of the program. These priorities and caseload limitations are necessitated by the paramount fact that clients and problems far exceed what the limited number of lawyers can possibly handle.[1] In the case of C.R.L.A., priorities have been established by the organization's board of directors and by local advisory committees representative of the client community. These groups consistently have urged that the lawyers give greater priority to cases in the areas of employment rights, education, civil rights, housing, welfare and consumer problems, and less to traditional service cases, such as domestic relations and bankruptcy. As against a massive showing of clients' support for C.R.L.A.'s innovative suits, there was hardly a word of criticism. It was those against whom the litigation was directed who most strongly questioned the litigation.

Third, Vice President Agnew incorrectly suggests that the legal services program has operated without any form of governmental supervision. "As it operates now," he says, "it is a public project but without public direction or public accountability."

To the contrary, all legal services programs have been required to reapply annually for funding and to submit reports of their past year's performance. OEO conducts a program of annual evaluations by outside evaluators, in which the American Bar Association and the National Legal Aid and Defender Association participate. While C.R.L.A., for example, has received laudatory evaluation reports each year, the evaluators have often made constructive recommendations, on which C.R.L.A. has acted. Particularly with respect to controversial programs, there are additional periodic inquiries and investigations by OEO, the Government Accounting Office, and state and local bar associations.

Finally, it is simply preposterous to assert, as Mr. Agnew does, that "there has been little serious examination of [the legal services program's] philosophical underpinnings", as if the government, the organized Bar, and the legal services lawyers themselves had spent the last seven years in aimless drifting.[2]

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[1] See. *e.g.*, Clark, *Legal Services Programs—The Caseload Problem, or How To Avoid Becoming the New Welfare Department*, 47 U. DET. J. URBAN L. 797 (1970); Silver, *The Imminent Failure of Legal Services for the Poor: Why and How To Limit Caseload*, 46 U. DET. J. URBAN L. 217 (1969); Note, *Neighborhood Law Offices: The New Wave in Legal Services for the Poor*, 79 HARV. L. REV. 805,822–828 (1967).

[2] The substantial thought that has been given to the philosophical and practical implications of the legal services program is reflected in extensive literature. Among the more significant articles are Cahn & Cahn, *The War on Poverty: A Civilian Perspective*, 73 YALE L.J. 1317 (1964); Shriver, *The Availability of Legal Services*, 51 A.B.A.J. 1065 (1965); McCalpin, *The Bar Faces Forward*, 51 A.B.A.J. 548 (1965); Carlin & Howard, *Legal Representation and Class Justice*, 12 U.C.L.A. L. REV. 381 (1965); Sparer, *The Role of the Welfare Client's Lawyer*, 12 U.C.L.A. L. REV. 361 (1965); Cheatham, *Availability of Legal Services: The Responsibility of the Individual Lawyer and of the Organized Bar*, 51 U.C.L.A. L. REV. 438 (1965); Rothwell, *Some Thoughts on the Extension of More Effective Legal Service to a Greater Number of the Poor*, 17 HAST L. REV. 685 (1966); Westwood, *Legal Aid's Economic Opportunity*, 52 A.B.A.J. 127 (1966); *Greenwalt, OEO Legal Services for the Poor: An Anniversary Appraisal*, 12 N.Y.L. FORUM 62 (1966); Voorhees, *The OEO Legal Services Program: Should the Bar Support It?*, 63 A.B.A.J. 23 (1967); Note, *Extension of Legal Services Under the Economic Opportunity Act*, 28 OHIO ST. L.J. 119 (1967); Note, *Neighborhod Law Offices: The New Wave in Legal Services for the Poor*, 80 HARV. L. REV. 805 (1967); Note, *Competition in Legal Services Under the War on Poverty*, 19 STAN. L. REV. 579 (1967); Note, *Beynod the Neighborhood Law Office—OEO's Special Grants in Legal Service*, 56 GEORGETOWN I.J. 742 (1968); Hannon, *Legal Services and the Local Bars: How Strong is the Bond?* 6 CALIF. WEST L. REV. 46 (1969) (refers specifically to C.R.L.A.); Green & Green. *The Legal Profession and the Process of Social Change: Legal Services in England and the United States*, 21 HAST. L.J. 563 (1969) (containing extensive discussion of C.R.L.A.); Voorhees, *Legal Aid: Past, Present and Future*, 56 A.B.A.J. 765 (1970); Robb, *Poverty Lawyers' Independence—Battle Cry For Justice*, 1 N. MEX. L. REV. 215 (1971); Sullivan, *Law Reform and the Legal Services Crisis*, 59 CALIF. L. REV.

NATIONAL LEGAL SERVICES CORPORATION IS NEEDED

Vice President Agnew, however, has provided a timely and compelling illustration of the need for the prompt adoption of legislation to transfer the management of the national legal services program to an independent, responsibly operated public corporation.

There is no dispute as to the propriety—or, indeed, the necessity—of ensuring that attorneys operating with public funds comply with the highest professional standards and with the guidelines of the legal services program. There are respects in which the guidelines and the supervision OEO has furnished can be improved.[3] But it is also imperative that those to whom the attorneys account respect the relationship between the legal services attorneys and their clients, grant appropriate latitude for the exercise of independent professional judgment and, most important, assure that there is insulation from undue political pressures from those whose interests are adverse to the interests of the attorneys' clients.

The enactment of legislation establishing a National Legal Services Corporation became ensnarled over the extent to which the President's authority to appoint the corporation's board of directors might be limited by recommendations received from professional and client organizations. More threatening were attempts to limit the scope of services legal services lawyers would be permitted to render, particularly in influencing legislation, and the activities they might conduct on their own time. But the compromise bill recommended by the House-Senate conference committee in July, 1972, contained few absolute proscriptions on the lawyers' work. Rather, the bill would have conferred on the National Legal Services Corporation broad authority to establish guidelines in most areas as to which critics of the program, like Vice President Agnew, have voiced concern. The report was recommitted to the conference committee, and (evidently because of the threat of another veto) the revised bill that emerged one month later omitted the provisions to establish the legal services corporation. The new report stated only:

The conferees continue to strongly support the existing legal services program and the concept of a legal services corporation and intend to continue to seek appropriate means of expanding the program and insuring its independence, to provide the poor greater access to our system of justice under law.

The Vice President concluded his article by calling for "a more carefully defined legal services program". Surely the way to furnish the definition and control the claims to seek is promptly to establish the legal services corporation and to permit it to proceed with the task. The fate of both the 1971 and 1972 legislation, coupled with the appearance of the Vice President's article and his earlier attack on Camden Regional Legal Services, call into question the depth of the Nixon Administration's commitment to a truly independent and meaningful legal services program for the poor.

It is important, therefore, that the Bar continue to insist on the creation of a protected and protective institution that will permit the furnishing of dependable legal services to proceed "free", as the preamble to the proposed 1972 legislation recited, "from extraneous interference and control".

1 (1971): Note, *The Legal Services Corporation: Curtailing Political Interference*, 81 Yale L.J. 231 (1971); Pious, *Congress, the Organized Bar and the Legal Services Program*, 1972 Wisc. L. Rev. 418 (1972); Cappeletti & Gordley, *Legal Aid: Modern Themes and Variations*, 42 Stan. L. Rev. 347 (1972); Karabian, *Legal Services for the Poor: Some Political Observations*, 6 U.S.F. L. Rev. 253 (1972).

The special circumstances of rural poverty law programs are discussed in Shriver, *Rural Poverty—The Problem and the Challenge*, 15 U. Kan. L. Rev. 401 (1967); *Lorenz, The Application of Cost-Utility Analysis to the Practice of Law: A Special Case Study of the California Farmworkers*, 15 U. Kan L. Rev. 409 (1967); Mittelbach & Short. *Rural Poverty in the West—Status and Implications*, 15 U. Kan. L. Rev. 453 (1967); Barnick, *Legal Services and the Rural Poor*, 15 U. Kan. L. Rev. 537 (1967).

[3] See Note. *The Legal Services Corporation: Curtailing Political Interference*, 81 Yale L.J. 231 (1971).

NOTICE OF HEARING ON REORGANIZATION PLAN NO. 1 OF 1973

Mr. RIBICOFF. Mr. President, the Subcommittee on Executive Reorganization and Government Research will hold a hearing on Reorganization Plan No. 1 of 1973, on Thursday, February 22, 1973, at 10 a.m. in room 3302 of the New Senate Office Building.

NOTICE OF HEARINGS BY SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES

Mr. HRUSKA. Mr. President, on behalf of the chairman (Mr. McClellan), I should like to announce that the Subcommittee on Laws and Procedures will resume hearings on codification, revision, and reform of the Federal criminal laws on March, 6, 7, and 8.

In this series of hearings testimony will be received on S. —, a bill to provide for the appellate review of sentences imposed in criminal cases arising in the district courts of the United States, S. 1, the "Criminal Justice Codification, Revision and Reform Act of 1973" as well as on general policy questions on the reform of Federal criminal laws. Issues to be considered in addition to appellate review of sentences will be abortion, capital punishment, and insanity.

The hearings will be held in room 2228, Dirksen Office Building, and will begin each day at 10 a.m.

Further information on the hearings can be obtained from the staff in room 2204, telephone extension 3281.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Lyle S. Garlock, of Virginia, to be a member of the Foreign Claims Settlement Commission of the United States.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, February 8, 1973, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

TOUCHDOWN CLUB AWARD TO MISS MELISSA BELOTE, SPRINGFIELD, VA.

Mr. HARRY F. BYRD, JR. Mr. President, last Saturday night, January 27, the Washington Touchdown Club broke a precedent and awarded a young woman its Arch McDonald Achievement Award.

The recipient was Miss Melissa Belote, of Springfield, Va., whose recordbreaking performances as a swimmer in the Olympics last year brought so much pride to Virginians and, indeed, to all Americans.

The Washington Touchdown Club could not have chosen a better occasion to bestow its award upon a young lady, nor could there ever have been a more deserving recipient of the Arch McDonald Award—which is given to "a local athlete who makes good."

Miss Belote did, indeed, make good. At age 15, she broke two world records at the Olympics. In the process, she also broke three records for the United States and three for the Olympic games.

A student at Robert E. Lee High School, Miss Belote received a warm welcome when she returned to Virginia from the Olympics. The tribute paid her by the Washington Touchdown Club is one of many she has received during the months since her outstanding performance.

I am sure I speak for all Virginians in congratulating Miss Belote once again on her achievements, and in expressing my pleasure at the action of the Touchdown Club in making this much-deserved award.

PRESS PROTECTS THE PUBLIC

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a letter from the editor, written by William D. James, executive editor of the Great Falls, Mont., Tribune, and excerpts from a speech by David Brinkley at the University of Southern California, be printed in the Record.

The letter from the editor and David Brinkley's remarks both carry a message. Let us heed them.

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

[From the Great Falls Tribune, Jan. 28, 1973]

Letter From the Editor—Press Protects Public

Dear Readers: In the article below, NBC News Correspondent David Brinkley calls attention to some basic points about the press and its relationship with government that too many, especially those in government, are overlooking.

It's true, as Brinkley stresses, that it is natural and in the best interests of the American people to have the press and government quarreling. When the press becomes a willing cheerleader for government, citizens of the U.S. are in danger. It is the obligation of the press to serve as the vigilant watchdog of government—all levels of it.

Critics of the press, and there are many of them because the press makes mistakes that infuriate people, may find Brinkley's

conclusion especially thought-provoking. He says that politicians have seized absolute power and muzzled the press in many countries, but that the press has not seized power and muzzled the politicians in any nation.

Attacks upon the press in the past few years have been disturbing because they have been sponsored by top government officials. The broadside barrages Vice President Agnew levied at television and newspapers a few years ago were followed by confrontations between members of the press and judges. Newsmen have been jailed for declining to reveal sources of new stories.

Even more serious than having reporters go to jail because they wanted to protect their news sources is the fact that some elements of the press are avoiding the types of stories that might cause them trouble with the courts and government.

Although the press will lose tremendously if it bows to the pressure of current attacks, the public will suffer the most.

The public must depend upon the press to report what public officials are doing, what policies affecting the public are being planned and put into effect and how tax dollars are being spent. There would be many more types of official skullduggery and corruption going on if it were not for the watchful eyes of the press. The average citizen simply cannot find the time to attend the City Council meetings, legislative sessions, congressional hearings, etc. That is the responsibility of the press—and although there certainly are mistakes and cases of poor judgment occasionally—in general the press of this nation meets its obligations with professional skill.

If newsmen are forced to disclose names of their sources, the press will lose one of its most valuable tools to get to the bottom of corruption in government. Courageous people willing to tell what they know about crooked policies will not talk to reporters if they know they can't speak in confidence.

Under our form of government, the news media is charged with the task of searching, ferreting, uncovering and exposing news, information and deeds to the public light. The press must serve as the public's information link, a role that exposes the press to reaction and recrimination. As William Shakespeare observed. ". . . the first bringer of unwelcome news hath but a losing office, and his tongue sounds ever often as a sullen bell, remember'd knolling a departed friend."

One of the most serious threats to aggressive news reporting was launched last month. The blow was delivered by Clay T. Whitehead, director of White House Office of Telecommunications Policy. He declared individual television stations would be held accountable, at the risk of losing their licenses, for the content of all network material they broadcast. Considering the administration's campaign against news and commentary, it is difficult to view Whitehead's proposal as anything but another attempt to intimidate a news medium.

While responsible members of the news media acknowledge their faults, drawbacks and excesses, they are alarmed at mounting threats to press freedom. A frightened press will be reluctant to expose weaknesses and corruption in government. An intimidated press will decay until it becomes a cheerleader for government and then the world will see another tragic example of a captive press. And, when a free press disappears, as it has in a majority of nations, other cherished constitutional liberties will be in serious danger.

Regards,

WILLIAM D. JAMES,
Executive Editor.

CXIX——191—Part 3

EXPLAINING CASE IS A HARD SELL

To politicians on an ego trip, which is most of them most of the time, any piece of journalism not filled with overweening and obsequious flattery is biased on its face. What Gertrude Stein said of writers applies with equal accuracy to politicians. She said writers want only three things: praise, praise and praise.

If I went on the air tomorrow night and said Spiro Agnew was the greatest American statesman since Washington, Jefferson, Madison, Adams and Hamilton, the audience might think I was biased. But he wouldn't.

When politicians and the press are quarreling with each other, that is their natural state. That is what they ought to do, and it is in the best interest of the American people.

If over the last generation, the politicians and bureaucrats in Washington have made such a mess of thing with the press keeping some kind of watch over them, what would they have done with nobody watching?

And without the press, there is nobody. Nobody to watch over them. Nobody at all.

When politicians and the press begin making sweet and loving remarks about each other, that will be the time for the American people to be concerned—because it will mean the press has given up its right and natural job of watching the politicians and gone to bed without them.

Explaining that to those of the American public who believe the press is hopelessly biased, excessively liberal or whatever, is a hard sell.

If politicians and bureaucrats have induced in the American people a profound skepticism and even cynicism—as they have—it was predictable that sooner or later this skepticism and cynicism would be turned on all public institutions, including the press.

It's been there a long time, Spiro Agnew simply gave it a push. His powers of persuasion are not great enough to have created a hostility that did not already exist. But they were just great enough to capitalize on one that did exist.

To those members of the public, not politicians, who are critical of the press, we might make a few factual points:

The biggest newspaper in New York is not the liberal Times but the conservative Daily News. The biggest newspaper in Chicago is the conservative Tribune. The biggest newspaper in Los Angeles (the third of our biggest cities) is the Times. I don't know how it would describe itself, but in any case it is not a screaming left-wing journal.

The most widely circulated newspaper in the United States is the Wall Street Journal—conservative. The biggest magazine in the United States is the Reader's Digest—conservative.

I honestly believe that the three big television news program—(ours and those on CBS and ABC)— are generally free of either left wing or right wing bias. Many of our viewers will argue that, and indeed do argue it. But they argue it both ways.

What happens is that people project their own biases on us. If we report a story in a way that supports the views they already hold, then we're honest, fair and objective. If we report it in such a way as to differ with the views they already hold, then we are biased, slanted and unfair. It is a fact of life and we have to live with it. Anyone who can't live with it should not go into journalism.

But to the members of the American public who think their news media are unfair and slanted and so on, I would offer them just one fact to contemplate:

There are numerous countries in the world where the politicians have seized absolute power and muzzled the press. There is no country in the world where the press has seized absolute power and muzzled the politicians.

So, if people are concerned about dangers to their rights and freedoms, they should be aware where the danger comes from. And it does not come from the press.

EQUITABLE TAXATION FOR UNMARRIED INDIVIDUALS

Mr. DOMINICK. Mr. President, I am pleased to join as a cosponsor of "Equal Taxation for Unmarried People" introduced on January 31, 1973, which would provide equitable taxation of unmarried individuals. Prior to 1969, our tax laws were so written that unmarried taxpayers could be required to pay up to 40 percent more in taxes than a married couple filing jointly on identical amounts of income. The Tax Reform Act of 1969 narrowed that discriminatory gap to 20 percent. This bill would end such discrimination.

Under the provisions of this bill, single persons and heads of households would be authorized to use the same tax table that is presently used by married couples filing joint returns. The enactment of the bill would extend equality of treatment to approximately 30 million unmarried taxpayers.

The legislation passed the Senate October 13, 1972, with my support at that time. There is no question that the Federal Government discriminates against the single taxpayer, whether that person be single with no responsibilities or the head of a household with as many and oftentimes more responsibilities than the married taxpayer. This bill presents an opportunity to end these discriminatory distinctions.

CHANCELLOR WILLY BRANDT AT THE HELM

Mr. HUMPHREY. Mr. President, over the past few years, much notice has been given to the increasing spirit of detente in East-West relations. After a 25-year cold war, tension and discord are slowly subsiding. The deep ideological cleavages are being bridged. Cooperation has taken the place of confrontation.

Credit for fostering a spirit of detente Europe must go to Chancellor Willy Brandt of the Federal Republic of Germany. Courageously, he has come to grips with the complex problems of a divided German nation by attempting to normalize relations with the other German State. His policy of "Ostpolitik" should be credited with easing tensions between the Federal Republic and her neighbors to the east. For this, and for his other efforts on behalf of world peace, I wish to express my deepest appreciation.

It is not insignificant for us to take notice of the role that Mr. Brandt and his nation are playing in the name of peace. Whereas the present German chancellor is one of the world's most ardent champions of peace, at one point in history a different German chancellor posed as the greatest threat to peace. However, the fear, the bitterness, and the hatred that the world once felt for

the German nation has been replaced with respect and good will for its policies. As Chancellor Brandt has said:

The questions which have arisen for the German people out of the second World War and from the national treachery committed by the Hitler regime can find their ultimate answers only in a European Peace Order.

It is to this European peace order that Willy Brandt has dedicated himself so diligently and eloquently.

In his government policy declaration given in the West German Bundestag on January 18, 1973, Chancellor Brandt expanded on his hopes for peace. He spoke of the "contagious desire for peace," of the "infectious results of discord," and of the "long and stony road" ahead in the quest for detente. These words reflect the sincerity of his purpose, as well as the accuracy of his perceptions. Chancellor Brandt and his nation have known the horrors of war, both actual war and the cold war. For three decades, Germany has been the central battleground of armed confrontation. Clearly, this has prompted Germany now to take the forefront in the battle for peace.

Germany is playing a leading role in the efforts for a united European community. It has embarked on a policy of "good neighborliness," both to the West and to the East. It is in its 10th year of a treaty of partnership with France, its traditional adversary. It has recently signed a treaty on the nonuse of force with the Soviet Union, and it is in the process of agreeing to the same principle with Czechoslovakia. It is improving its political dialog with Hungary and Bulgaria, and is expanding trade, commercial, and cultural relations with all of Eastern Europe. Most important, West Germany is moving toward a settlement of the tragic problem of German separation.

Divided by a wall of barbed wire and a chasm of bitterness from a large segment of its fellow countrymen, the West Germans are a symbol of a people taking positive steps to overcome seemingly insoluble difficulties. We must commend the concrete achievements of Chancellor Brandt and his nation. Moreover, we must try to emulate their successes and use them as an inspiration of the progress that can be made in fostering peace among nations.

Finally, Mr. President, I would bring to the attention of Senators the work of Chancellor Brandt in the area of trying to improve the quality of life for the citizens of the Federal Republic. In his Bundestag message, Chancellor Brandt outlined the Social Democratic Party's program of domestic reform.

Some of Willy Brandt's countrymen like to call his program the "German New Deal." It courageously charts a compassionate course for those who are in need of help and advocates a greater sharing in the economic benefits of a modern industrial state; it is a New Deal. I wish to commend publicly Chancellor Brandt on the course of his domestic policies. I might add that the Democratic Party should closely examine some of the SDP's domestic programs to determine whether they could be adapted for use in the United States.

Mr. President, I ask unanimous consent that excerpts from Chancellor Brandt's January 18 declaration to the Bundestag be printed in the RECORD.

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

CHANCELLOR BRANDT—GOVERNMENT POLICY DECLARATION DELIVERED ON JANUARY 18 IN THE GERMAN BUNDESTAG

In the foreign policy section of the Government policy Declaration, Mr. Brandt said (slightly abridged):

The government's programme, which I am setting out here today, is the precise consequence of what Social Democrats and Free Democrats set forth in the policy statement of October 1969. The political objectives of that time continue to be valid, and we can build upon what has been achieved. Despite the shortening of the legislative term we have fulfilled the essentials of the programme we set ourselves.

The new Federal Government backed by a clear mandate from the voters, took up its work with the short statement which I made here on 15 December, 1972. I introduce our programme for this legislative term with the sentence on which I ended in 28 October, 1969: We want to be a people of good neighbours within and without. Here is the source of the trust on which we depend. Here we also perceive the sum total of the obligations committing us to responsibility for the whole of the people.

This concept of good-neighbourliness shows our will for continuity which I underline today. This continuity has acquired its own unmistakable stamp. It is characterized by the substance of our policy of actively securing peace and implementing social reforms. We are also aware that the desire for renewal demands a clear vision of how to make possible what is necessary. Reforms in the dimensions we have opened up for developments in our country require perseverance.

Our citizens are leading better lives. The social security system has been strengthened. Our economy is flourishing, despite the worry about prices. This is the starting position. Nevertheless, there remains much to do to enable the Federal Republic of Germany to hold its own in peaceful competition and to develop further as a democratic and social federal state.

We can note: Peace in Europe has been strengthened due also to our work. Today as yesterday this peace is the clear wish of our people and the basic element of our interest. One may even say: Never did a German state live in comparable harmony with the free spirit of its citizens with its neighbours and partners in the world.

It is believed by some that the post-war era was drawing to an end. This must not blind us to discord, violence and suffering tormenting the nations: Civil-war-like situation on the periphery of Europe demanding daily the sacrifice of human lives, misery in large parts of the third world; in South East Asia a terrible conflict which hopefully is now drawing to a close.

The pressing impatience with which people in Germany, too, await peace for Vietnam can well be understood. As the Federal Chancellor, I have believed that it was not right to join in vociferous protests some of which had a false ring about them. We have chosen other ways and other forms of exerting our influence for peace and humanity.

Even at the risk of still being misunderstood by some, I confine myself at this moment to a statement orientated to the future: We are prepared to give humanitarian assistance in both parts of Vietnam and—together with others—to help in rebuilding this tormented and devastated country, when at last the guns will be silent.

In the Middle East a conflict is still dragging on which does not have us indifferent; not least because forty years ago this month began what called itself the Third Reich. Against this very background the right to existence of the State of Israel is incontestable for us. In the Arab countries understanding for our attitude is growing. Aware of their problems we wish to cultivate the traditional friendship with all Arab peoples.

Our peace policy in Europe has proved to be a factor contributing to world-wide detente. Both tension and relaxation are catching. Not only the want of peace but also the desire for peace can be contagious. We know, however, that detente also produces problems of its own.

We see this every day, also in regulating, on a new basis, our relations with the GDR, the other German state. Moreover one should not forget, millions of our fellow-countrymen have in the past weeks experienced that the Berlin agreement, the treaty on traffic questions and the basic treaty are the results of a policy which in a tangible way serves the people. The families and friends of old days are coming together again, does a great deal for the sense of belonging together felt by the Germans, who even under the living conditions of two opposed social systems, want to remain one people.

The basic treaty is not yet in force. But already today we want to leave no doubt that we will work with patient determination for further improvements in the interest of the people.

Essential conditions have been created for the policy of detente and reforms; now it must, with tenacity and a sense of purpose, be translated into everyday reality.

"Everyday" is not a bad word: it has a flavour of our daily bread about it; it has to do with the quality of life which must be the fruit of our reforms. This, the quality of life, is the aim of our work.

So I consciously subject my government's work to the demand that it be tested in everyday life. Policy is in essence always the product of intellectual and moral decisions. This is true both within and without. In the midst of daily work the spiritural orientation of our program should always be clearly manifest.

In external affairs the Federal Government will consistently continue its policy of good neighbourhood. Is foreign and security policy exclusively serve the peace.

In the first place I mention the goal of European union, a goal established for this decade by the Paris summit conference in the autumn of 1972. It will embrace the entirety of relations among the member states. Intensified and ever closer policia co-operation is to give decisive impulses. The comprehensive programme of work adopted by the summit conference must be carried into effect, particularly in the field of economic and monetary policy.

The work of European unification can only be accomplished of the relations among the peoples concerned are marked by ties of friendship. A living example is the partnership between Germany and France which I termed "entente elementaire" and which, almost precisely ten years ago, was cast into treaty form. I am sure that our good cooperation with Great Britain, Denmark and Ireland will be proving as valuable as that with the original member states of the community.

The citizens in Europe expect already now the social and democratic elements within the community to be strengthened.

We should like to see the powers of European parliament extended.

The European community will only have clearly lived up to its purpose if in the eyes of the world it sets an example of the dynamism of progress in freedom and social justice.

As regards the North American countries

and Europe, it is definitely sure that they continue to have common security interests. They share the responsibility for an international structure of peace in Europe. The differences in this area result from the incontestable fact that our interest are primarily concentrated on our continent whereas the American obligations are world-wide.

Both divergent and common interest will have to be identified with perfect frankness. They will be of long duration. But we should decide in what way we can help each other in solving our problems.

Yet there is no indication that the United States' economic relations with the part of Europe which has organized itself in the European community, have suffered any damage; the contrary is true. Nevertheless, a constructive dialogue which I still consider necessary can help to prevent possible economic tension from developing into unnecessary political strain.

By means of the treaties of Moscow and Warsaw, of the Quadripartite agreement on Berlin, of the related agreements at German level, and of the basic treaty with the GDR, better conditions have been established for conciliation within Europe, between East and West. We shall seek co-operation on a broad scale with the countries of Eastern Europe in the economic, scientific, technological and cultural areas, at the same time the Federal Government will continue to work for the alleviation of humanitarian problems which are still unresolved in connection with the resettlement of people and the reuniting of families, and it will use every available means of improving human contacts.

The pattern of our bilateral treaties on the non-use of force which was agreed first with the Soviet Union requires the conclusion of an arrangement with our neighbour, the Czechoslovak Socialist Republic.

The Federal Government hopes to come to an arrangement in the foreseeable future whereby the Munich agreement will cease to be a strain on the relationship between the two states.

The Federal Government will continue the political dialogue with the Warsaw Pact States and hopes to be able to include Budapest and Sofia. It will not neglect its contacts with the non-aligned countries.

With the preparations for the Conference on Security and Co-operation in Europe, the development of relations with Eastern Europe now enters a multilateral phase. The Federal Government is, above all, interested in such practical results as will be felt by the people in Europe and hence by the people in Germany. It is determined, in spite of the ideological differences, to do its share, patiently and without illusions, for a common will to form little by little on our continent, even if this were only in limited spheres. I am now convinced that substantial progress is possible.

When the Bundestag adopts the relevant law we shall make our application for admission to the United Nations.

The policy of the Federal Republic of Germany will thus gain a new dimension; we shall be ready to assume a greater share of responsibility also for reducing conflicts.

We shall expand our relations with the countries of Asia, and now also with the People's Republic of China.

The traditional friendship with the countries of Latin America needs to be fostered.

The development of our partnership with the countries of Africa should correspond to their geographical proximity and their complementary role as economic partners.

We shall have to increase our public and private development aid, in concert with the actions taken by our European partners.

In this respect, the importance of the multilateral organization will grow. By combining technical and financial assistance we want to ensure an accumulated effect of our development aid.

The Atlantic Alliance remains the basis of our security. It also provides the backing for our policy of detente towards the East.

The political and military presence of the United States is indispensable for keeping a balance of power in Europe. At the same time the Federal Government will endeavour to make the European pillar of the alliance stronger. The Eurogroup providing a realistic basis for such efforts.

The freedom to contribute to detente and conciliation is not something we get for nothing. We do not regard compulsory military service, defense budget and civil defense as mere necessities, we see them as a meaningful service for the free community of our citizens; this service assists us in our work for peace.

The presence and combat effectiveness of the Federal Armed Forces must be maintained. With due consideration to the report submitted by the defence structure commission and after consultation with our alliance partners, we shall have to find a defence structure which will enable the Federal Armed Forces to fulfill their mission also in future.

The Federal Government has advocated a mutual and balanced reduction of forces and arms in Europe and will take part already in the preliminary negotiations on this issue. The connection between these negotiations and the second round of the strategic arms limitation talks between the United States and the Soviet Union calls for examination in each phase with regard to its effects on Europe.

Here again, there must be no illusions. It cannot be overlooked that the development of armaments in the Warsaw Pact countries has increased the Eastern overall potential. This will not lead the Federal Government to draw any premature conclusions. This tendency that does not have its parallel in Western Europe.

The Federal Government wants to diminish the danger of confrontation in Europe by means of controllable measures. In this process the right of all concerned to security must always be protected. It is reasonable and timely to build more confidence in Central Europe.

The parties represented in this House will surely agree with the observation I made in the policy statement of October 1969 that "the questions which have arisen for the German people out of the Second World War and from the national treachery committed by the Hitler regime can find their ultimate answers only in a European peace order." I added: "However, no one can dissuade us from our conviction that the Germans have a right of self-determination just as has any other nation."

At the time I went on to say: "The object of our practical political work in the years immediately ahead is to preserve the unity of the Nation by relaxing the relationship between the two parts of Germany." Today I wish to say the following: "If we are agreed on the objective and the task, the controversy over the best road to take will lose its caustic or cutting pungency."

Beyond the Berlin Agreement which would not have come about without our participation and which can only be assessed rightly if seen against the background of the preceding crises, improvements in the relationship between the two states begin to take shape. Today, the government in East Berlin also wants to "arrive at a regulated modus vivendi and from there proceed to co-operation", as we put it in our policy statement of 1969 and spelled out in concrete terms in the twenty points of Kassel in the spring of 1970. What has become possible in the last three years cannot go unappreciated.

We realize that the road is long and stony, after many years of non-relations and hostility, the people and those in government in the two German states will have to experience and to learn how to deal with each other.

We shall not be spared difficulties and friction. The Federal Government is determined to carry out with political and legal consistency the treaty which lays the basis for the development of the relations with the GDR and to instill it with life in the interest of the people in both states. We want to bring about a state of affairs where the shooting will stop.

The regulation of relations between the two states must help in solving the human problems which are a bitter legacy of the division.

Like all other parties involved, the Federal Government regards the quadripartite agreement on Berlin as an important international success. It consists not least in the stipulation that the ties between Berlin (West) and the Federation can be maintained and developed. It should be in the interest of all concerned not to talk to pieces the success of 1971/1972, but to ensure that its effect for detente in the heart of Europe will be fully utilized in the years ahead. Our Berlin is to find its significant and natural function in detente. To this end the Federal Government will continue to support the Senate as best it can. We have rejected the governmental and social system of the GDR in the past as we will reject it in the future. In turn, it is not to be expected that the government of the GDR will modify in any way its rejection of conditions over here. But both governments have decided by treaty to face up to their responsibility and to renounce the use of force in spite of these differences. Both must put peace above all differences.

For us this means: The preservation of peace comes even before the question of the nation. This is a service which the German people renders the European peoples.

Only the long and toilsome road from a modus vivendi to cooperation between the two states gives the nation its chance. A report in writing on "the development of relations between the Federal Republic of Germany and the German Democratic Republic" will be submitted in connexion with the debate of the basic treaty in Parliament. The state of the nation and the relationship between the two states in Germany will be regularly on the agenda of this house, also in future.

Some of the details of our domestic policy, which I cannot touch upon today, will have to be considered in connexion with the 1973 budget. The annual economic report will be available when it is submitted.

Today I wish to emphasize especially how much we have to regard the process of European unification as a basic condition of our own action in particular in the field of economic policy, we accept his challenge and the great opportunities, but also the risks it involves, and we realize that this common Europe will more than hitherto determine our domestic policy decisions as well.

Progress towards a European community of stability, prosperity and social progress can only be achieved if national decisions are co-ordinated to a greater degree and the community's powers are enhanced step by step. The difficult process of growing into the common market has already considerably restricted the scope for national decisions—a fact which is not always seen and appreciated.

We realize that what has to be created is not merely a Europe of economic relations but at the same time a Europe of working people ensuring their social security and improving their quality of life.

The decision to undertake the community's social development, which was the result of our initiative at the Paris summit conference, is therefore of special importance of European integration. Yet the most important task we have to master together with

our European partners, will be to regain greater price stability. This will be a test for the community, which demands of all member states a large measure of understanding and solidarity. In keeping with the European aims we have put forth our own contribution in a 15-point programme submitted last October.

Heading the list is monetary and credit policy. For years it was hardly possible to use this classical instrument of controlling cyclical fluctuations because every time credit was made dearer and scarcer the effect was spoiled by the influx of foreign exchange. The situation has improved since last summer, not least as a result of the measures taken at the time by the federal government.

The world-wide explosive increase in the supply of money in recent years has made obvious to all attentive citizens the need to reform the international monetary system. In the important international negotiations ahead of us the federal government will, as in the past, recommend a system that will be flexible enough to avoid monetary crises where possible and in which the expansion of liquidity can be kept under control.

The second element of our national stability policy is the shape of the overall public budget, which of course, as we know, is only partly under the jurisdiction of the federation.

And thirdly, a particular responsibility falls to all those who in practice decide on costs and prices, that is trade and industry, employers and trade unions. The Federal Government upholds the principle of autonomy in wage negotiations. It expects all concerned to exercise this right with a sense of responsibility.

The Federal Republic's economy is, I am glad to say, currently in a phase of upturn; we have full employment, the social climate is stable and the balance of payments is in equilibrium. The incomes of employees and old-age pensioners, the self-employed—and now also of the farmers—have increased not inconsiderably. None of this can be taken as a matter of course—as we can see if we look beyond our frontiers.

I hope most people will understand me correctly when I add that those who merely make additional demands without being prepared to make additional contributions, too, are not doing justice to the situation, nor to their own interests. . . .

[Excerpts of the domestic section of the Chancellor's policy declaration]

BRANDT COMMENTS ON ECONOMIC AND SOCIAL POLICY

The Federal Republic's economy is, I am glad to say, currently in a phase of upturn; we have full employment, the social government is stable and the balance of payments is in equilibrium. . . .

One of the urgent tasks of the legislative term is to ensure a well-functioning system of competition. This is indispensable for industrial productivity and social progress. . . .

Industry must not only adapt itself to the needs of the day but prepare itself more and more for the challenges of the future, and also to the integration of the developing countries in the world economy. Our structural policy is designed to facilitate this process. The efficiency and adaptability of our market economy system should be used.

The Federal government will continue to implement consistently the agricultural and food policy it has successfully pursued within the Common Market and in the national sphere.

The development of and increased emphasis on social policy in the agricultural sector have facilitated the process of adaptation and avoided social hardship. This process was helped by the reorientation of the agricultural structural policy which set the course for an agricultural structural policy concept in the European community adopted last year by the Council of Ministers. . . .

ENVIRONMENTAL PROTECTION

Noise, air, and water pollution and disturbances of the ecological balance do, in fact, jeopardize benefits of economic growth. Yet we must caution anyone not to jump to the conclusion that the way out of this dilemma might be a general limitation of growth and productivity. The question rather is where we should have economic growth, what it should be like and what ends it should serve—and we must also realize that growth and the economic principle must be at the service of man.

Environmental protection, regional planning, urban development, the development of the transport system, and with it the improvement of living and working conditions, of possibilities for leisure activities and recreation must be seen as being closely interrelated.

We are going to put into practice and further develop our environmental programme.

The quality of life has become a central concept in our political work. It must not deteriorate into an abstract formula. Quality of life means to us: freedom, including freedom from fear and need, security, also through human solidarity . . .

In my policy statement of October 1969 I set education and training, science and research at the top of the list of needed reforms. In this nothing has changed . . .

The Federal Government will use to the full its powers in shaping overall national education planning. It wants to secure in this reform the goal of the uniformity of our education system . . .

Equality of opportunity demands that vocational training be accorded the same status enjoyed by other fields of education.

Federal Government and Laender have in the past years created more places in higher education, and have promoted the development and reform of research and teaching in the universities. This is to be continued . . .

The Federal Government advocates the shortening of studies, the introduction of the study year and the abolition of competitive entry.

The diversity of views in research and teaching is inherent in the freedom of scientific work. Intolerance is harmful to science and teaching, and also to learning. Centres of teaching and research must not be transformed into political battlegrounds . . .

Research and technology will play a vital part in determining the future of our society. Their promotion is a joint task of state and industry. The enormous expenditures in these fields make clear priorities imperative and require the co-ordination of all branches of research.

The Federal Government will endeavour to extend international co-operation in research and technology, also with the countries of Eastern Europe. In the enlarged European community we will press more urgently for the concept of a common research and technology policy.

Large-scale technical project, E. G. in the spheres of space research, aviation, new transport technology, nuclear technology and data processing, will in future increasingly be gauged by the contribution they make towards the improvement of living conditions . . .

CULTURAL POLICY

The Federal Government will not tolerate any undermining of the freedom of opinion.

The fact that major communication media are controlled by individual people must not lead to the result that only one opinion can make itself heard. The law governing competition will also have to contain provisions to control mergers of press and medium enterprises. Freedom of press and mass media includes freedom within the press and within the media.

The aim of modern social policy is to provide more justice and to create the conditions for a larger measure of genuine freedom in our society . . .

During the current legislative term we shall pay even greater attention to those whom fate has put on the fringe of society.

I am particularly grateful for the efficient help of the churches in this field. In this work in particular they set an example. The social institutions of the charitable and private welfare organisations should not be interfered with by the Government; the community needs them.

FOREIGN WORKERS

Nearly two and a half million people from other countries are working amongst us. Together with their families they form a large minority. We . . . know how much their industry has contributed to the prosperity of us all. We should appreciate this. However, it has become necessary for us to consider carefully where the saturation point lies or where social reason and responsibility require us to call a halt. We cannot let this matter be governed by the law of the momentary advantage . . .

We regard the development of co-management as one of our principal tasks. Worker involvement in decision-making processes is part of the substance of the process of democratization in our society.

We shall develop company law on the basis of co-management of labour during this legislative term. We shall start from the principle of equal rights and equal influence of employees and shareholders.

The question of worker co-management will receive more attention than hitherto also in the European Community.

The elections have proved that political extremism proper has no chance among us. Yet we continue to be vigilant, and the enemies of our Constitution will be well advised to count upon our determined resistance both today and tomorrow.

For democracy and domestic security belong together. In 1972, we passed the necessary bills for more effective crimes control and prevention.

New forms of crimes and terror—and skyjacking is not the least of them—call for international co-operation, which we are energetically seeking to bring about . . .

EUGENE L. WYMAN

Mr. RIBICOFF. Mr. President, I have known Gene Wyman, his gracious wife, and his fine family for many years. I considered them old and dear friends, and I had the pleasure of visiting with them many times. My thoughts and deepest sympathies are with them.

It came as a great shock to me to hear of Gene's recent death, as it must have to his many friends everywhere. His tragic loss is keenly felt here in the Senate, in the Democratic Party, in the American Jewish Community and in his home State of California.

Gene has been described as having created "a legend in his lifetime," and rightfully so. In the tragically short span of his 48 years, his record of achievement in helping his fellow man and advancing the causes he believed in was truly remarkable.

Gene's commitment and activities in behalf of worthy causes are deserving of the highest praise. For example, in 1971 Gene was credited with raising a record level of Israel Bond sales in California. And his efforts to help the famed

Hebrew University in Jerusalem resulted in a major facility at the University, being named the Eugene and Rosalind Wyman Political Science Building.

I know that Gene will long be remembered by all those he helped, and by all those who had the good fortune to know him.

JAPAN—A FIRST-RATE ECONOMIC POWER

Mr. BROCK. Mr. President, there is general public awareness of the emergence of Japan as a first-rate economic power in recent years.

Yet, in spite of this awareness, in spite of the immense volume of Japanese products which we use in this country, and in spite of recent well-publicized diplomatic contacts between our two countries, we Americans have a very meager understanding of Japanese culture.

The story is told that recently an American, one of the tiny handful who are fluent in Japanese, stopped a policeman in Tokyo to ask directions. Although he phrased his question in perfect Japanese, the policeman, looking at him, answered:

I'm sorry. I do not speak English.

The policeman could not imagine an American speaking Japanese, although he saw Americans on the street in Tokyo every day. Can anyone imagine such an event taking place in Paris or Rome?

Of course not. Yet in economic and geopolitical terms, modern Japan is probably more important to us than France or Italy. The exchange of trade, for example is much higher. In fact, we trade more with Japan than with any other nation except Canada.

I believe that we need to take new initiatives to get to know Japan better. One very sensible proposal in this area is a bill sponsored by the Senator from New York (Mr. JAVITS) which would set up a fund to promote scholarly, cultural, and artistic activities between the United States and Japan.

The moneys to finance the program would be drawn from the payment being made to the United States by Japan as a result of the Okinawa Reversion Treaty, and is an appropriate use of this money.

I am pleased to join with the Senator from New York as a cosponsor of this legislation.

MUTUAL AND BALANCED FORCE REDUCTIONS

Mr. MUSKIE. Mr. President, I welcome the beginning of preparatory talks in Vienna on mutual and balanced force reductions in Europe. These talks will be difficult and may take several years to complete. Nevertheless, we must begin to work energetically toward the mutual withdrawal of both NATO and Warsaw Pact troops from Central Europe. I hope that the President will in fact make these talks a "front-burner" issue in 1973, along with other European issues, as he suggested in yesterday's news conference.

I ask unanimous consent that the articles on this subject be printed in the RECORD.

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

[From the New York Times, Feb. 1, 1973]

EAST AND WEST OPEN TALKS FOR PARLEY ON FORCE CUT

(By Drew Middleton)

VIENNA, January 31.—Twelve countries from the North Atlantic Treaty Organization and seven from the Warsaw Pact met here today to begin preparation for a conference later this year on the withdrawal of forces from Central Europe.

Two procedural disputes threatened to delay such a conference as the first informal meeting was held.

The Soviet Union, over strong NATO opposition, wants to widen the conference to include not only Rumania and Bulgaria, which have no forces in Central Europe although they are Soviet allies, but also European neutrals. The Russians are also insisting that the conference deal with the "mutual reduction" of troops and not the "mutual and balanced force reductions" that the West wants—the word "balanced" meaning that the Soviet Union should withdraw more troops, since it has more in the area.

In addition, the West points out, the Soviet Union is closer geographically to its troops in Central Europe than the United States is to its forces in West Germany.

Rumania and Bulgaria did attend today's meeting, but in Western eyes their status at future sessions is undecided. The other East bloc participants were the Soviet Union, East Germany, Poland, Czechoslovakia and Hungary.

The West was represented by the United States, Britain, Canada, West Germany, the Netherlands, Belgium and Luxembourg, which all have forces in Central Europe, and by five so-called flank countries. These are Norway and Denmark, on the northern flank, and Greece, Turkey and Italy, on the southern.

Jonathan Dean, the chief American delegate, said that NATO had been "pressing" for the conference for a long time and that "we are going to do our best to give it a constructive outcome."

Oleg N. Khlestov, head of the Soviet delegation, described the talks in a statement to the press as dealing with "mutual reduction of armed forces and armaments in Europe." He is head of the Judicial and contract department of the Soviet Foreign Ministry.

Later a Soviet diplomat objected strenuously to the initials MBFR on the badges issued by the Austrian Press Bureau to newsmen. Thereafter, "mutual and balanced force reductions," were eliminated from the badges.

NATO wants the talks focused on Central Europe, where there is the largest concentration of forces. The Soviet Union and its allies have a ratio of 1.7 to one in the manpower, 3 to 1 in tanks and 2 to 1 in aircraft in that area.

The Soviet Union has 20 divisions, with about 225,000 men, in East Germany. There are about 185,000 United States army troops in West Germany. There are also five Soviet divisions in Czechoslovakia, two in Poland and four in Hungary, with about 120,000 men.

On the southern flank, the three NATO allies, Greece, Turkey and Italy, have a slight edge in manpower over Rumania and Bulgaria and NATO has a larger number of warships and aircraft.

The NATO flank countries are to be less than full participants but more than observers. Plans call for them to speak and circulate papers at meetings, but not to vote. Soviet sources said that a similar status would be a minimum requirement for Bulgaria and Rumania.

The seven NATO states with forces in central Europe were named by NATO to represent the West in negotiations. NATO took the initiative on force reductions in a communique issued after a ministerial conference at Reykjavik, Iceland, in June, 1968.

France, which has two divisions in West Germany, has opposed the talks since they were first proposed.

The Soviet Union in its note of Jan. 24, suggested not only the inclusion of Rumania and Bulgaria but also countries outside of both alliances such as Sweden and Yugoslavia.

One diplomat said the West's basic reaction to the inclusion of neutrals is: "We can't have the Maltese or the Swedes telling us where we should deploy our forces."

[From the Washington Post, Feb. 1, 1973]

EAST-WEST TALKS ON FORCE REDUCTIONS OPEN IN VIENNA

(By John M. Goshko)

VIENNA, January 31.—Representatives of 19 countries met here today to formally open the long-awaited talks on the possibility of negotiating a reduction of the military forces poised against each other in central Europe.

These negotiations—referred to in diplomatic parlance as mutual and balanced force reductions or MBFR—represent what is potentially the most significant step so far in the movement toward an East-West detente in Europe.

If successful, they would mean a big start on dismantling the NATO and Warsaw Pact military machines that have faced each other across the Iron Curtain since the beginnings of the Cold War.

The talks are especially important to the United States, which has been the prime mover in the long struggle to launch force reduction negotiations. The Nixon administration views force reduction talks as the best solution to the problem of maintaining a safe military balance in Europe while satisfying congressional pressures for bringing home substantial numbers of the American troops stationed on the continent.

For this reason, Washington is very anxious that the talks now beginning here, which are characterized as "exploratory" in nature, will lead to full fledged negotiations sometime this fall. As Jonathan Dean, chief of the U.S. delegation, said today: "We have been pressing for this for a long time. We are going to do our best to give it a constructive outcome."

As today's half-hour ceremonial opening in Vienna's former imperial palace, the Hofburg, made clear, a long list of technical and procedural problems must first be resolved before the participating countries can even reach the point of starting to explore whether actual negotiations are feasible.

Western delegates said afterward that there probably will not even be another formal session before Monday at the earliest. In the interim, they added, the various delegations will be occupied full time in an informal, feeling-out process.

The NATO side, under strong American prodding, has taken the position that full participation in the talks should be limited to those countries on either side that actually have forces stationed in Central Europe in order for the talks to be effective.

Accordingly, NATO has proposed that the West be represented in the talks by the United States, Canada, Britain, West Germany, Belgium, Luxembourg and the Netherlands as full participants. The NATO "flank" countries with an interest in the talks—Italy, Denmark, Norway, Greece and Turkey—would take part in a limited, non-voting way and be represented on a rotating basis.

NATO further proposed that the Warsaw Pact be represented on a fully participating basis by the Soviet Union, East Germany, Hungary, Poland and Czechoslovakia. How-

ever, the pact's other two members, Romania and Bulgaria, have also sent delegations here and have been demanding that they be admitted to full participation.

So far, the West, and in particular the United States, has been unwilling to accede to this demand.

Western sources said that at today's meeting, marked by a brief ceremonial address from Austrian Foreign Minister Rudolf Kirchschlaeger, the Communist side made no mention of an earlier Warsaw Pact proposal that the talks be thrown open to all interested European governments, including neutrals. This, the sources said, led the West to conclude that the question of neutral-country participation is now a dead issue.

One fundamental problem that Western diplomats had been expecting also came up today when the head of the Soviet delegation, Oleg N. Khlestov, protested the inclusion of the word "balanced" in press credentials and other documents relating to the talks.

The phrase "mutual and balanced force reductions" was coined by the West out of recognition that the Communist side enjoys substantial superiority of numbers in both men and weapons over the combined NATO forces. In addition, geographic factors would also give a natural advantage to the Warsaw Pact in any force reductions, since American troops would be withdrawn across the Atlantic while Soviet forces would only have to pull back a few hundred miles.

For these reasons, the West has always stressed the word "balanced" to emphasize that any reductions should be conducted according to a formula that would give some offsetting compensation to the West. The most commonly suggested plan has involved the idea that Warsaw Pact reductions should be greater than those made by NATO.

However, the Soviets have never used the word "balanced" and their objections today indicated that it is going to take a lot of arduous bargaining before they might be induced to accept the principle of reductions on anything other than a strict one-for-one basis.

[From the New York Times, Jan. 29, 1973]

TENSIONS OF TALKING

Negotiations are a means to an end. Serious problems can arise when nations spend so much of their creative energies on getting talks started that they grow inarticulate about how the talks should end, about the desired outcome. This is a looming danger in the twelve-nation Vietnam peace conference which the United States is moving to get under way Feb. 26. It seems already to be the fate of the long-awaited East-West talks to reduce military forces deployed in Central Europe.

The Soviet Union has formally accepted Jan. 31 as starting date for this third fixture on the diplomatic calendar, alongside the European Security Conference and the second round of Strategic Arms Limitation Talks. That was anticipated; what was unexpected was Moscow's wish to expand the number of countries participating. The North Atlantic Treaty Organization was right to reject this Soviet proposal, even though the dispute may delay the meeting's opening. A rule of thumb in postwar diplomacy has been that the more nations involved in a negotiation, the less meaningful its results. For the Kremlin to try broadening the meeting now is an ominous hint that it has little serious business in mind for the present, except to test the strains inside the Western alliance.

But then how much serious business does Washington have in mind? It is almost with relief that Administration officials warn that the force-reduction talks will go on for a long, long time. One of the rewards for a leisurely pace could be an indefinite postponement of pressures from Congress for an early, unilateral reduction in the 300,000-man American garrison in Europe. The mere fact that talks are under way can be used to deflate advocates of a cutback, laying them open to the now familiar charges of undercutting the President by stealing his "bargaining chips" while he is in the midst of play.

If American critics of the military establishment are wary that the force-reduction talks are really designed to perpetuate present troop levels, European Governments are nervous at the opposite possibility: enthusiasm for détente may create irresistible pressure for cutting United States forces in Europe, if not next year then the next or the next. In the wake of withdrawal from Vietnam, Americans may move overquickly toward withdrawal around the world. A leading British newspaper, The Guardian, scrutinized America's post-Vietnam mood and concluded: "The European commitment has been damaged—more so perhaps than most Europeans have yet realized. And the foundations of the North Atlantic Alliance, in mutual confidence between the United States and other Governments, have been severely shaken."

This is the uneasy atmosphere in which the United States and the West confront the Soviet Union on the most sensitive issue of post-World War II Europe. President Nixon has a few points to clear up inside the Western alliance before he tries anything more with the East. The Vietnam conference is bound to show up even greater diversity of goals. Negotiation among adversaries is always preferable to aloof standoff, but when the process of talking is elevated beyond a means to an end and becomes an end in itself, it can open as many problems as it can resolve.

WALTER C. LOUCHHEIM, JR.

Mr. HUMPHREY. Mr. President, a very dear friend and one of America's truly universal men, Walter Louchheim, died yesterday. I know that many Members of Congress share the sorrow that Mrs. Humphrey and I feel at the departure of this wonderful man.

Walter Louchheim led a life, a superb life, in the tradition of the great men of the renaissance and our own Benjamin Franklins and Thomas Jeffersons of America. He loved life; and he not only experienced all aspects of life, he excelled in many of them. A successful businessman, he was immersed as well in the arts, philosophy, music and drama, civic affairs, and national and international politics and administration.

Mr. President, our affection for Walter Louchheim, as Senators know, was shared with his remarkable and devoted wife, Katie. Members of my political party owe her so very much for her inspiration and her dedicated work on behalf of the Democratic National Committee. Mrs. Humphrey and I have expressed to her our deep sorrow and our compassion at this great personal loss.

Mr. President I ask unanimous consent to have printed in the RECORD a column by Kenneth Crawford, published in the Washington Post of this morning, and a column by E. W. Kenworthy, published in the New York Times, concerning the life of this fine man.

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

[From the Washington Post, Feb. 1, 1973]

WALTER C. LOUCHHEIM, CIVIC LEADER

(By Kenneth G. Crawford)

Walter C. Louchheim, 73, investment counselor, civic leader and patron of the arts, died yesterday morning at his home, 2824 O Street NW, after a short illness.

A resident of Washington since 1934, he served several administrations as an expert on national and international and monetary policy. Since 1971, he had been associated with Ferris and Company, Inc., and director of its investment advisory department.

Mr. Louchheim was an advisor to the U.S. delegation both at the Breton Woods Conference and the inaugural meeting of the Monetary Fund and World Bank. About his contributions as one of the planners of Breton Woods and the system it adopted for restoration of order in international trade and finance after World War II, Maynard Keynes, a British delegate to the conference, wrote him in the summer of 1944:

"You have done a grand piece of work which ought to save a wilderness of time."

One of the original Roosevelt New Dealers, Mr. Louchheim helped to organize and became a member of the staff of the Securities and Exchange Commission, one of the regulatory agencies created after the economic crisis of the Great Depression. He served as its assistant director and adviser on foreign investments.

Mr. Louchheim became a member of the National Capital Planning Commission on appointment of President John F. Kennedy in 1961 and served as its vice chairman through most of the Johnson administration. His concern for the welfare of the capital city was constant.

So was his interest in the cultural life of the city. He was a member of the National Symphony Board and the Washington Society for the Performing Arts. He was also a devotee of contemporary painting.

But his cultural preoccupation was music. He established the Katie and Walter Louchheim Fund of the Library of Congress to record and distribute nationwide the Library's chamber music concerts.

Mr. Louchheim was born in Rydal, Pa., in 1899 but grew up in New York City, where he attended Franklin School. He entered Princeton in 1916, where he joined the United States Naval Reserve. Transferring to Harvard after World War I, he was graduated cum laude with a B.A. degree. Later he pursued doctoral studies in Aristotelian logic and metaphysics at Columbia.

Just out of college, he became an investment banker with his father's firm, Louchheim and Minton, a member of the New York Stock Exchange. His government career terminated in 1953, after which he became a private investment consultant with offices in Washington.

In 1926, he married Kathleen (Katie) Scofield of New York, who survives him. Mrs. Louchheim, long active in Democratic Party affairs, is a former vice chairman of the Democratic National Committee and a former deputy assistant secretary of state.

Also surviving are two daughters, Mary Lieberthal of New York and Judith Haupt of Washington, and a sister, Mrs. Patrick Bellew of Litchfield, Conn. There are also three grandchildren, Cotton and Dierde Coulson, and Frances Ann Lieberthal, all of New York.

Mr. Louchheim was a member of the First and Fifth Churches of Christ Scientist and of the mother church in Boston.

His clubs were Cosmos, Federal City, which he help found, City Tavern Association, Harvard, International and Chatham Beach and Tennis (Massachusetts.)

The family will hold private services. In lieu of flowers, contributions to the Katie and Walter Louchheim Fund of the Library of Congress are suggested.

[From the New York Times, Feb. 1, 1973]

WALTER C. LOUCHHEIM, JR., DEAD; BANKER, CIVIC LEADER IN CAPITAL

(By E. W. Kenworthy)

WASHINGTON, January 31.—Walter C. Louchheim, Jr., by vocation an investment counselor and by avocation a philosopher and a patron of music and drama, died this morning at his home. He was 75 years old.

Mr. Louchheim came to Washington with his wife, Katie, in 1934—one of the original New Dealers—as a staff member of the Securities and Exchange Commission, which he had helped organize. For almost 40 years he was a part of the cultural, political and civic life of the city, and his well-appointed home in the Georgetown section was a gathering place of Senators and Representatives, leading figures in six Administrations and members of the diplomatic community.

In many ways, Mr. Louchheim seemed an 18th-century man or perhaps a figure from the New York of Henry James. He loved the good things of life—he was a fastidious dresser and fastidious about his food—and he had the means to indulge his tastes.

AN OMNIVOROUS READER

Yet, he was also a man of wide-ranging interests. An omnivorous reader of newspapers, he also devoured history, philosophy (his first academic passion) and poetry. But he drew the line at novels. Although he played no musical instrument, he could whistle all the themes of Beethoven's quartets.

His fondness for Beethoven came from years of attending Friday night concerts of chamber music at the Library of Congress. He and his wife established the Katie and Walter Louchheim Fund to record and distribute the chamber-music concerts nationally.

Mr. Louchheim was born in Rydal, Pa., in 1899, but grew up in New York, where he attended the Franklin School. In 1916, at the age of 16, he entered Princeton, but on America's entry into World War I, he joined the Naval Reserve. After the war, he decided to major in philosophy, and on the advice of a Princeton professor transferred to Harvard, from which he graduated cum laude in 1921.

After Harvard, he reluctantly yielded to his father's urgings to join the Wall Street investment firm of Louchheim & Minton, taking his father's seat on the Stock Exchange.

In 1926, he married Kathleen Scofield of New York, and five years later he left investment banking and entered Columbia University to pursue a doctorate in Aristotelian logic and metaphysics.

He never completed his doctorate. In 1934, the late Ferdinand Pecora, one of the original S.E.C. commissioners, lured him away to join the staff then organizing the agency. Mr. Louchheim remained with it until 1953.

In 1944, Mr. Louchheim became an adviser to the United States delegation at the Bretton Woods Conference, from which emerged the postwar World Bank and the International Monetary Fund.

In 1953, Mr. Louchheim left the Government and became a private consultant here. In 1961, President John F. Kennedy appointed him to the National Planning Commission, on which he continued through most of the Johnson Administration. As a commissioner, he blocked a plan to build a new Government Printing Office on land he believed should be reserved for public housing.

In 1962 Mr. Louchheim wrote President Kennedy, strongly urging the abandonment of convertibility of dollars for gold. But Mr. Kennedy's Treasury advisers persuaded him that this action—which President Nixon was to take in August, 1971, under emergency conditions—was not politically feasible.

While Mr. Louchheim was immersing himself in civic and cultural affairs (he was a member of the National Symphony board and the Washington Society of the Performing Arts), he was also being immersed in Democratic party politics by his wife. She began as a volunteer worker in the nineteen-forties and progressed to vice chairman of the Democratic National Committee in the years 1956–60.

In 1972, however, they parted political company as Mr. Louchheim, growing more conservative, supported President Nixon.

Besides his wife, he leaves two daughters, Mrs. Mary Lieberthal of New York and Mrs. Judith Haupt of Washington, and three grandchildren.

There will be a private service for the family.

FARM PRICES NOT REALLY HIGH

Mr. YOUNG. Mr. President, the great consuming public has come to believe that farm prices are very high and that farmers are receiving exorbitant prices for their commodities.

With a few exceptions, prices to farmers themselves are still below what could be considered to be a fair price by any yardstick. Few realize that less than a year ago wheat in western North Dakota was selling for less than $1 a bushel—the lowest since 1944. Only a year ago the best potatoes produced in the United States in the Red River Valley of North Dakota and Minnesota, were selling, washed, and sacked, for $1 a hundredweight or less.

Mr. President, a very good editorial on the farm price situation appeared in the Bismarck, N. Dak., Tribune of January 27. The editorial is entitled "Farm Prices Not Really 'High.'"

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:

FARM PRICES NOT REALLY "HIGH"

Politicians in metropolitan centers have joined with food-oriented industry in a demand for farm price controls allegedly intended to keep the cost of food to the consumer from rising any higher.

Eastern newspapers have joined the clamor, apparently feeling that only a "freeze" or roll-back of farm prices can protect the consumer from growing grocery costs.

"The whole system of wage and price controls will fall apart if the agricultural sector of the economy is not brought under restraint," the Wall Street Journal editorialized recently. It went on: "For the longer run, the answer lies in a complete overhaul of U.S. Farm policy, which still is designed to push up prices by creating artificial shortages . . . . Instead of limiting supplies, the U.S. should be doing everything it can to increase output to meet the rising world demand for grain and feed."

There has been a relaxation of production restrictions since then and, of course, there have also been relaxations of import restrictions upon farm products.

But those who are critical of the rise in farm prices might do well to consider how far they have lagged behind other prices until very recently.

Wheat is an example. Its rise has all occurred within the past year. Until within the past year, the farmer was getting for his wheat about what he got for it a year earlier, or two years or five or ten years before that.

Other goods and services have risen steadily in cost over the past 10, 15, 20 and more years. If wheat had gained in price proportionately, all along the way, it would have reached its present price level long ago—and there wouldn't have been the abrupt rise recently that has occasioned the present clamor. Now it is being made to appear to be some kind of sin for wheat to achieve a price level commensurate with that of other goods and services.

The same could be said of beef, the cost of which isn't as far above its 1960 level, percentagewise, as for example a shirt, a truck, an outboard motor or a bottle of booze.

The fact still is that the American consumer is getting a bargain in his food. He spends less of his total income for food than does any other national, leaving him more to spend for recreation, housing and good living.

This is due to the continually advancing efficiency of the American farmer, and perhaps he ought to have an opportunity to share the benefits of his own contribution to the welfare of the American consumer. Elsewhere, many peoples worry about being able to produce enough to keep themselves alive. It is due in part to the fact that Russian agriculture and mainland China agriculture haven't been able to meet their countries' food needs, and resultant demands for American food, that prices here are up. We'd be paying a lot more if the tables were turned and we had to import foodstuffs to keep our larders supplied.

The way to keep Americans fat isn't by keeping the farmer poor. If he is to continue producing, he must also get a fair share of the national income.

EXCESSIVE POSTAL RATES

Mr. MONDALE. Mr. President, in the closing days of 1972, everyone in the publishing world was saddened to learn that Life magazine was ceasing publication. Over the course of more than three decades, Life had become an American institution, chronicling our progress and setbacks, our serious and comic moments as a nation.

Tragically, the demise of Life magazine may be only the beginning of a new wave of closings at a wide variety of publications. For the end of Life magazine is only a mirror-image of what may well happen to hundreds upon hundreds of smaller publications, who can afford the proposed increase in second-class postal rates even less than could a giant publishing company such as Time-Life, Inc. When Life announced that a part of its reason for ceasing publication was the prospect of a 170-percent increase in mailing costs over the next 5 years, it was only a small initial taste of many similar announcements which almost certainly will follow.

Last June, when I cosponsored the proposal of the Senator from Wisconsin (Mr. NELSON) to bring these postal rate increases under control, I quoted the great jurist Learned Hand:

The mutual confidence on which all else depends can be maintained only by an open mind and a brave reliance upon free discussion. I do not say that these will suffice; who knows but we may be on a slope which leads down to aboriginal savagery. But of this I am sure; if we are to escape, we must not yield a foot upon demanding a fair field, and an honest race, to all ideas.

This is even more applicable today

than it was last summer. Every time a magazine or newspaper is forced to abandon publication because of soaring postal costs, the "honest race to ideas" of which Learned Hand spoke becomes a little less honest. Every time a publication—large or small, liberal or conservative—ceases printing because of postal costs, we move a little further along the road toward that day when the free and vigorous exchange of ideas will only be a memory of the distant past.

The need for the legislation which the Senator from Wisconsin (Mr. NELSON) has reintroduced—and which I am again proud to cosponsor—is greater today than at any time in the past. Last July, the St. Paul Dispatch indicated their view of the importance of this legislation when they noted that—

> The most immediate threat to a free press in this country is not subpoenas, government secrecy or Spiro Agnew. It is what has been called "death by postal rate."

And the Catholic Bulletin, in St. Paul, noted that—

> If each class within the Postal Service has to pay for itself it will mean the end of countless small, free-wheeling, independent newspapers, magazines, newsletters and publications of all kinds which have made this nation what it is today.

These statements do not unduly overdramatize the problem we are facing. With Postal Service increases of 127 percent now already partially in effect—and with much more to come—the ability of hundreds of publications to survive is seriously questioned.

More ominously, it is the small magazines of thought, opinion, and ideas—of every political perspective—which will least be able to bear the burden of the proposed postal rate increases.

These proposed increases, by bearing more heavily on editorial content than on advertising content, hit most heavily those magazines and newspapers which emphasize editorial material over advertising pages. In addition, by adding a per piece mailing surcharge, the proposed increases penalize those magazines and newspapers whose bulk is small, but whose content often looms large in the form of American public opinion.

These are the periodicals which serve the crucial function of refreshing our thinking and restoring our creativity. As Learned Hand has stated:

> As soon as we cease to pry about at random we shall come to rely upon accredited bodies of authoritative dogma; and as soon as we come to rely upon accredited bodies of authoritative dogma, not only are the days of our liberty over, but we have lost the password that has hitherto opened to us the gates of success as well.

Without the small publications of every description which are threatened by these postal rate increases we will come to rely even more than we must now on "authoritative dogma." For the more voices of dissent and differing opinions which are shut off, the more we will be forced to rely on the Government briefing and the "authorized" press release for our information.

The bill introduced by the Senator from Wisconsin (Mr. NELSON), S. 630, which I am cosponsoring, would allow smaller circulation magazines and newspapers a considerable measure of relief—while still affording some benefits to magazines of larger circulation and heavier advertising content. By freezing postal rates at the June 1, 1972, levels for the first 250,000 copies of each issue of any magazine or newspaper, the bill would insure the continued vitality of the Nation's free press. Yet this increase would leave second-class rates at levels roughly 33 percent above those of 1970. The bill thereby offers relief without offering an unnecessary windfall.

Second, by phasing in the increase on editorial content over 10 years, instead of the currently proposed 5 years—for all copies over 250,000—the bill would recognize the vital position of the Nation's magazines of opinion in keeping our people well informed.

Finally, and of greatest importance to the smaller publications, this bill would implement long-standing congressional policy against per piece surcharges on individual issues of second-class publications.

Almost 200 years ago, Thomas Jefferson stated that he cared not who made a country's laws, so long as he could write its newspapers. Today, the function of disseminating ideas is entrusted to all our communications media. No segment of the media plays a more vital role than do the small magazines and newspapers of opinion and ideas. If we fail to enact legislation to help save these publications an important part of our freedom will slowly and silently drift away, robbing our entire Nation of its most precious legacy.

REFORM OF COMMITTEE STRUCTURE

Mr. HUMPHREY. Mr. President, I want to congratulate the House of Representatives on its courage and leadership yesterday. By a vote of 282 to 91, the House approved creation of a 10-man bipartisan select committee to study House operations, and in particular to make recommendations as to the realinement of committee jurisdictions.

Mr. President, it may be no longer true that effective congressional reform, like the weather, is something everyone talks about but no one does anything about. In my opinion, the House of Representatives, in the action I have cited, is getting to the heart of the problem of congressional ineffectiveness and the erosion of congressional powers by the executive.

Mr. President, on January 18 of this year, I introduced Senate Concurrent Resolution 5 to direct the Joint Committee on Congressional Operations to conduct or commission a study of Senate committee jurisdictions, functions, and staff resources.

I again wish to call my resolution to the attention of the Senate and urge immediate action on it. While I would not oppose the creation of a select Senate committee, I believe that we need some independent judgment about this sensitive matter which could best be provided by an independently commissioned study. Of course we do not have to agree with the findings of the study, but we should let someone else initiate new thinking on the functional reorganization of committee jurisdictions.

In other words, Mr. President, I am suggesting that we equip ourselves as the poet Robert Burns suggests:

> Oh wad some power the giftie gie us
> To see oursels as others see us!

Mr. President, I appeal to the leadership and to the chairman of the Joint Committee on Congressional Operations (Mr. METCALF) and to the chairman of the Committee on Rules and Administration (Mr. CANNON), to which this concurrent resolution has been referred, to consider my resolution and report it for action to the Senate.

If the House of Representatives can take this giant step toward reasserting congressional power, I believe the Senate can do the same. Mr. President, I ask unanimous consent that the text of Senate Concurrent Resolution 5 again be printed in the RECORD.

Mr. President, I also ask unanimous consent that the New York Times article describing the action taken by the House yesterday be printed in the RECORD.

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

S. CON. RES. 5

Whereas there is a demonstrated need for the Senate of the United States, as one house of the United States Congress, to assert its policymaking and oversight functions; and

Whereas the Committee structure of the United States Senate is so organized as to frustrate the examination, the analysis, and the oversight of governmental policy; and

Whereas, because of the fragmentation of committee jurisdiction and responsibility in the United States Senate, there has been a decrease in clarity of policy purpose and of Congressional control over governmental program operations and expenditures; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Joint Committee on Congressional Operations immediately begin or commission an in-depth analysis of the Committee jurisdictions of the United States Senate, taking into account the need to reduce fragmentation of policy and program oversight, the necessity for aligning Committee jurisdiction on the functional purposes of governmental programs, the potential application of new technologies for Committees of the United States Senate, and the requirement that staff personnel and resources be effectively and efficiently allocated among Committees of Congress of the United States. The Joint Committee on Congressional Operations shall make periodic reports to the United States Senate and present final recommendations to the Senate by September 1, 1974; also be it

Resolved, That Expenses of the Joint Committee on Congressional Operations under this concurrent resolution shall be paid from the contingency fund of the Senate upon vouchers approved by the Chairman of the Joint Committee on Congressional Operations.

HOUSE APPROVES A REFORM STUDY—NAMES BIPARTISAN PANEL TO LOOK INTO OPERATIONS

(By Marjorie Hunter)

WASHINGTON.—The House took the first step today toward what could become the most sweeping Congressional reform in decades.

The creation of a 10-man bipartisan committee to make a $1.5-million study of House

operations was approved by a vote of 282 to 91 after the first lively debate of the nearly month-old session of Congress.

The move pointed up widespread concern on Capitol Hill over the dwindling powers of Congress and the increasing domination by the White House. Reformers have argued that only by changing its outdated internal structure can Congress ever be in position to reassert its leadership.

The study could lead to vast changes in existing power structures through realignment of committee jurisdictions. And the alteration of committee jurisdictions could have a broad impact on virtually every business and social institution in the nation.

EXAMPLES CITED

For example, the study committee might see fit to recommend that welfare aid to the needy be shifted from the House Ways and Means Committee, whose members and staff are far more attuned to trade and tax matters.

The study committee might also find that health care issues might better be handled by some committee other than the Committee on Interstate and Foreign Commerce, or that there should be closer coordination of foreign policy issues now scattered among a variety of committees.

Only minutes after the House voted its approval, the House Speaker, Representative Carl Albert of Oklahoma, named Representative Richard Bolling, Democrat of Missouri, to head the new select committee. Mr. Bolling, once a protégé of the late Speaker Sam Rayburn, has been a highly vocal critic of House operations in recent years and is the author of several books on the need for House reform.

Other Democrats named to the committee are Representatives Robert G. Stephens Jr. of Georgia, John C. Culver of Iowa, Lloyd Meeds, Washington and Paul S. Sarbanes of Maryland.

Republicans named to the committee are Representatives David T. Martin of Nebraska, Peter H. B. Frelinghuysen of New Jersey, Charles E. Wiggins of California, William A. Steiger of Wisconsin and C. W. (Bill) Young of Florida.

"IMPOSSIBLE" ASSIGNMENT

While terming the committee assignment "a wholly impossible task," Mr. Bolling told the House that the need for committee reform was so crucial that "it must be done." He pledged that the committee would not "serve any political party or special interest."

The study will be limited to the House structure only, leaving the Senate free to maintain the status quo or create a similar study committee of its own.

In this respect, the study will be different from past Congressional reorganizations, such as one a quarter of a century ago, involving both the Senate and the House.

In creating a study committee of its own, the House again demonstrated more willingness for change than the tradition-minded Senate.

Prodded by reformers, the House now has more open committee procedures—such as public disclosure of votes—than the Senate. The House also has installed an electronic voting system, while Senate tallies are still made verbally.

But even the creation of the new study committee today failed to dampen cries of liberal Democrats for more immediate reforms in the House.

REFORM PROPOSALS

Democratic reformers said that the agenda for tomorrow's party caucus failed to list action on some of their principal reform proposals, such as fully open committee meetings, modification of the rule prohibiting floor amendments, and the establishment of a Democratic steering committee to set party policy in the House.

The reform groups had been led to believe that these proposals would be taken up at tomorrow's caucus. They said they would try to persuade Mr. Albert and the House majority leader, Representative Thomas P. O'Neill Jr. of Massachusetts, to place the reform items on the agenda.

The 282-to-91 vote creating the House study committee failed to reflect the intensity of the debate in which two of the House Republican leaders—Representative Gerald R. Ford of Michigan, the minority leader, and Representative John B. Anderson of Illinois, chairman of the party conference—engaged in a round of intramural sparring.

Supporting Mr. Albert's proposal for setting up the special committee, Mr. Ford chided Mr. Anderson and other Republicans for suggesting that the study be channeled through the existing Joint Committee on Congressional Operations.

GOVERNMENT SPENDING

Mr. BROCK. Mr. President, I believe that a recent article by David Lawrence on the subject of Government spending will be of interest to Senators. I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Star and News, Jan. 10, 1973]

INFLATION AND GOVERNMENT SPENDING

(By David Lawrence)

There has apparently been too much reliance in Congress on the idea that appropriations for specific projects would take care of the economic problems being encountered as the nation grows steadily in population. Inflation, of course, has been a major factor in preventing an era of stability. Since controls have been applied, the question is whether economic recovery can be maintained without governmental intervention in the wage and price crises that arise.

Certain analysts have the feeling that a "no-growth" attitude is already emerging in some parts of the country. It is a drive to block expansion, especially in the face of possible power shortages and depleted fuel reserves. Suburbs are beginning to rule out high-rise apartments and to delay various kinds of construction. Basically, the debate seems to be whether economic growth alone is the means of solving the nation's problems.

Many groups feel that industrial development should be subject to its environmental impact and that efforts should be directed toward wiping out pollution, for instance, and making cities more pleasant and attractive. Both the President and Congress are well aware of the currents of thought throughout the country as people look to Washington for improvements in American life.

It is natural, therefore, to find that Congress itself is discussing what can be done to achieve better results from the money spent. Up to now, the belief has persisted that the flow of federal funds could accomplish nearly anything. But stability is not likely to come if spending continues indefinitely with more and more deficits and with no clear pattern as to what the government's course must be. The impression has prevailed that the cost of the Vietnam War has hampered normal development, when actually the expenditures on domestic matters have been far larger and exercised a greater influence on the inflationary trend.

Arthur Burns, chairman of the board of governors of the Federal Reserve System, in a recent speech declared that the outcome of our struggle with inflation "is likely to have worldwide repercussions." He pointed out that almost the entire world is suffering from inflation and that the pace of it is in many countries more serious than in the United States. Dr. Burns added:

"The single most important need at the present time is to curb the explosive growth that has marked federal spending in recent years. Some shock therapy may be needed here, such as a freeze or near freeze for a year or two on federal expenditures. The President is struggling to hold budgetary outlays to $250 billion in the current fiscal year (ending June 30, 1973). Even if he succeeds, as I trust he will, federal spending will still have more than doubled during the past eight years, and it will still exceed last year's outlays by 18 billion.

"Contrary to a widespread impression, this burst of federal spending reflects only in small part the Vietnam war. The fundamental cause has been political indulgence of the theory that most social and economic problems can be solved by quick and large expenditures of federal monies . . . the result has been that we have hastily piled one social program on another, so that they now literally number in the hundreds and defy understanding—beyond the obvious fact that they have disappointed our expectations and frustrated our fiscal calculations. In view of this experience, a tax increase—even if that were immediately obtainable—would hardly be a suitable alternative to tightened expenditure controls."

Dr. Burns went on to say that to curtail federal spending in the future will require reforms in the budgetary process. He noted that Congress has recognized the need to focus on the over-all budget and is re-examining its procedures.

Dr. Burns doesn't think wage and price controls can be abandoned now but believes that reforms should make possible the achievement of prosperity. He says this is essential not only to protect our domestic situation but to facilitate economic growth of other nations around the world.

So what official Washington is hearing these days is that there are many problems ahead, not the least of which will be the wiser use of federal expenditures.

THE OIL CRISIS

Mr. MUSKIE. Mr. President, this morning's New York Times contains an article by Mr. Edward Cowan concerning the present fuel crisis. The article has the most disturbing implications.

It points out that the administration's own estimates of the oil supply for the remainder of the winter indicate the very real possibility of a full-blown crisis with widespread shortages far surpassing anything we have yet experienced.

According to the article, current stocks of home heating oil east of the Rockies amount to 125 million barrels and are dwindling at a rate of 1 million barrels per day. At this rate, by April 1 the total supply east of the Rockies could drop to a point at which there would be "virtually no reserve."

The article then quotes one knowledgeable oil expert as saying that, if this occurs, "the outer reaches of our distribution system like Maine, could have no fuel at all."

Mr. President, at 7 o'clock this morning, the temperature outside my district office in Waterville, Maine, was 20° below zero.

The President's own advisers are now saying that the situation could become a disaster. What more does the Presi-

dent need to lift permanently the import quotas which contributed to the current crisis?

I ask unanimous consent that Mr. Cowan's article be printed in the RECORD and earnestly hope that the President will heed the warning it contains.

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

U.S. AIDES SAY COLD WAVE COULD SPUR FUEL-OIL CRISIS

(By Edward Cowan)

WASHINGTON.—In a fresh appraisal, Government energy planners have concluded that the fuel-oil shortage could reach crisis proportions before winter ends if there is a sustained cold wave.

The most optimistic assessment being circulated within the Government is that the states east of the Rockies will just squeak through the rest of the winter if temperatures are normal.

Looking further ahead, the analysts believe that unless President Nixon makes further modifications of the oil import quotas, the fuel-oil supply situation next winter could be even tighter.

Criticism of the quota system, including the charge that it has enabled the big oil companies to take customers away from independent terminal operators, is expected to be heard tomorrow at a hearing of the Senate Interior and Insular-Affairs Committee. Witnesses from the industry and the Administration, plus Gov. Francis W. Sargent of Massachusetts, are expected to testify.

The Senate Democratic Caucus called on President Nixon today to take "all necessary emergency measures, including the release of military stockpile supplies, to meet the essential requirements for oil and other fuels in regions of critical shortage."

INCREASE IN OUTPUT CITED

The American Petroleum Institute reported today that refinery production of heating oil increased last week after declining for two weeks in a row. Stocks of heating oil east of the Rockies, where the shortage has been concentrated, continued to fall at a rate of roughly one million barrels a day. In the week ended Jan. 26 they stood at 125 million barrels, down 26 million barrels from a year earlier.

The Government analysts expect that, with normally cold weather, stocks east of the Rockies, will fall to 60-million to 75 million barrels by March 31.

Below 70 million, it is said, there is virtually no reserve to meet extra demand in the event of subnormal temperatures. The reason is that the stocks are widely spread around the country and at such a low level that individual refineries and distributors find they have no oil to spare.

SYSTEM BREAKING DOWN

If stocks drop to 60 million barrels, one oil expert commented, "your system is already breaking down." He said, "The outer reaches of your distribution system, like Maine, could have no fuel at all."

The analysts calculate that if temperatures average 5 per cent below normal, which happens about one winter in five, stocks could drop to 40 million barrels. "That is a disaster," one official said. Twenty-five per cent of your distribution system will be dry at that point."

Industry data indicated that as unpromising as the Government's analysis was, it may be tilted toward the side of optimism.

Figures of the American Petroleum Institute show that refineries east of the Rockies converted 24 per cent of their crude oil to heating oil last week, slightly less than the 24.4 per cent high reached in the week of Jan. 5, when heating oil output hit a peak. The Government analysis assumes a heating oil, or distillative yield of 25.4 to 26.3 per cent.

GAS SHORTAGE EASES

The Federal Power Commission reported that the natural gas shortage eased somewhat in January as the early winter cold wave moderated and some above-normal temperatures occurred in many parts of the country.

Nevertheless, the situation remained tight and officials expressed concern about the possibility of another cold spell.

Newly compiled figures showed that deliveries of gas by interstate pipelines in December fell 124 billion cubic feet below contract commitments. Allowing for double coupling because some gas goes through more than one interstate line before reaching a local distributor, the average rate of curtailment nationally was about 5 per cent, somewhat higher than had been anticipated last autumn.

For some individual pipelines, and their customers, however, the shortage was far more acute. The United Gas Pipeline Company, which serves Southeastern states, fell 1.1 billion cubic feet a day below its contract commitments, or 23 per cent.

POWER COMMISSION ACTS

The power commission, in the first step of its kind, has ordered United to show cause why it should not discontinue sales of natural gas to all its industrial customers. That action was in line with the commission's list of user priorities, which puts homes and small commercial customers at the top.

Reiterating earlier assurances, a commission official said: "I just don't see any possibility of residences or small commercial customers being without gas. Every company has a contingency plan."

The official added, however, that he had mistakenly forecast earlier that deliveries would be stopped in a cold wave only to so-called interruptible customers, those with stand-by oil or coal burners. In fact, some "firm" customers, those without alternatives, were also cut off temporarily earlier this month.

Officials of The Federal Power Commission said that no oil- or gas-burning electric utility had been shut down, despite "some real tight squeaks." The utilities burn residual oil, a heavier product than heating oil, but it too has been in short supply. In 1970, gas accounted for 29 per cent of utility fuel, oil 15 per cent, coal 54 per cent and uranium 2 per cent.

COAL SUPPLIES UNAFFECTED

A spokesman for the National Coal Association said that mining had not been affected despite the anxieties of some carriers of strip-mine coal that they would run out of diesel fuel for their vehicles. Diesel fuel is essentially the same petroleum product as heating oil and has also been in short supply.

Coal accounted for 18 per cent of energy consumed in the United States in 1971, natural gas and gas liquids, such as propane, for 36.5 per cent, petroleum products for 40.8 per cent, hydro-electric power for 4.1 per cent and nuclear power for 0.6 per cent.

Government energy specialists believe that the President must go beyond his recent suspension until April 30 of import quotas for heating oil to assure a build-up of adequate supplies for next winter and to protect independent terminal operators and distributors from a permanent loss of markets to the major oil companies, which have better access to foreign supplies.

One estimate is that the suspended quota of 50,000 barrels a day for the independents should be raised to at least 100,000 barrels and perhaps 150,000 barrels for the rest of 1973. A widespread complaint is that the 120-day suspension benefits the big international companies, because they have widespread foreign supplies at their command, but does not give the independents enough time to arrange for and take delivery of large volumes before May.

Most of the big companies have told the Government that they were meeting their contractual commitments. However, they have refused to disclose, presumably for competitive reasons, what proportion of their business was under contract and how much was so-called spot-market sales. In any event, the major companies are understood to have sought to place contracts with wholesalers and retailers that customarily bought in the spot market from independent deepwater terminal operators.

PRIORITIES IN THE PRESIDENT'S BUDGET

Mr. STEVENSON. Mr. President, I completely agree with the President's budget request for an expenditure ceiling of $269 billion, particularly after deficits totalling nearly $75 billion during the last 3 years. However, I cannot agree with the President's priorities expressed within that ceiling, nor with the wholesale resort to the impoundment device as the means of accomplishing cuts in domestic programs.

Defense expenditures will rise nearly $5 billion despite the end of the Vietnam war. The Federal Government despite its $12 billion projected deficit will distribute $6 billion from the Treasury to States and localities which in the aggregate will run a surplus of $11 to $12 billion.

Yet, no new low or moderate income housing, model cities, or community development commitments will be entered into. Nearly $1 billion in water pollution control funds will be impounded, and spending to fight crime will barely keep pace with inflation. The community action programs of OEO, health manpower training and community mental health centers, and many education programs, including Follow Through, will be severely reduced or terminated. The public service employment program will be phased out, and manpower training funds will be cut at a time when the unemployment rate is still a far too high 5.2 percent. Welfare rolls will go up.

The adverse impact of the President's budgetary proposals is evident in Illinois. The people of my State have expressed their strong support for efforts to combat water pollution by approving a three-quarter billion-dollar bond issue to clean up our invaluable water resources. The President now flouts the intent of Congress and ignores the initiative of the people by refusing to authorize $6 billion for sewage treatment facility construction under the Water Pollution Control Act of 1972. This means that Illinois will lose in fiscal 1973 and 1974 $375 million of the $688 million in Federal funds to which it is entitled and which it rightfully expected to receive.

The budget reveals other broken promises. I have sought in the last 2 fiscal years to accelerate the development schedule for the Indiana Dunes, our first urban national park and a source of desperately needed open space for the people of the Chicago area. As a result of

this effort, over $2.5 million will have been spent in fiscal 1972 and 1973 to save the dunes. The administration now appears to be junking its plans for the preservation and development of the dunes.

The destructive impact of the budget spans from natural resources to human resources. We are told that the budget provides constantly increasing levels of support for such "human resource" activities. In reality, the only beneficiary of constantly increasing levels of support is the military-industrial complex. With a drastic cutback for the Office of Economic Opportunity, the only family health center in economically depressed Cairo, Ill., loses its Federal support—the lifeblood of its existence.

The list could go on and on.

The President has announced his intent to accomplish much of these program reductions or terminations through impoundment, a device of dubious legality. His action is high-handed and clearly contrary to the intent of Congress. I intend to introduce legislation shortly which will require Congress to set its own budget ceiling and will prohibit the President from accomplishing by impoundment what he cannot accomplish by a constitutional veto. Congress must reassert its constitutionally granted power of the purse. We are quite capable of setting our own priorities, and I trust we will do so by cutting the fat in the budget rather than its muscle, as the President has done in many cases.

MANDATORY SEAT BELT LEGISLATION

Mr. BAKER. Mr. President, by the time the 1972 statistics are compiled, we will find that between 56,000 to 58,000 people will have died in traffic accidents, so many in fact, that safety experts are still compiling the totals.

My own State of Tennessee was one of the 15 States that led in the number of highway deaths in 1972. We were also exceedingly high in the number of highway injuries. These are hardly records of which we can be proud.

But what is most outrageous is that highway deaths and injuries could have been reduced dramatically everywhere—if people had simply bothered to use the safety belts already installed in their cars. Safety belts are available to nine of every 10 passenger car occupants. Yet, fewer than one-third of these people regularly use lap belts, and less than 5 percent of them use shoulder belts.

In addition to the tragic injuries and loss of life, there is a tremendous economic factor. Last year it cost the American public more than $46 billion in expenses caused by traffic accidents. This is $46 billion that, instead of being wasted in funeral expenses, wage loss, medical fees, social security benefits, property damage, and other accident-related expenses, could have been used to improve the quality of life for all Americans.

Advertising and publicity campaigns have been waged to convince us that we should buckle up. But the response has been negligible. Last week Colman McCarthy discussed this problem in a well-written article in the Washington Post. I ask unanimous consent that his column be printed in the RECORD.

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

WHY NOT MAKE SEAT BELT USE MANDATORY?

(By Colman McCarthy)

In 1968, the National Safety Council spent the equivalent of $51 million promoting the use of seat belts among drivers. Similar campaigns have been waged in other years, urging motorists to "buckle up," "lock it to me," and asking "what's your excuse." In a day when advertising induces people to consume countless drugs to ease such health menaces as nasal drip and tired blood, it was assumed that spreading the word about the health menace of the automobile would be no problem. Yet the public that is so preoccupied with saving its nasal membranes is apparently unconcerned about saving lives on the highway. A study of one typical ad campaign concluded it had "no effect whatsoever."

The news has to be bad, at least for the surviving families of the 10,000 to 20,000 killed because they were not belted. The dead might be alive today, injured perhaps, but not part of the 1972 record that saw 58,000 killed in the bloodiest year yet on American roadways. Every 10 minutes someone is killed in a highway crash. One insurance company figured that America's death and injury rate roughly equals the number of babies born every year; thus, every child can look forward to being killed or injured one day in a crash. The problem of seat belts is not that drivers don't know of their life-saving value, but that drivers don't use them. Less than five per cent use shoulder belts and no more than 30 per cent use lap belts.

As if dismayed that the carnage persists, the Department of Transportation proposed last August that the wearing of belts—lap and shoulder—be made mandatory. It is a bold idea, the government telling America's 90 million drivers that if you won't save your lives, we'll save them for you. The DOT proposal is still open to comment from the public—until February 2, 1973—but to date no state has passed legislation for mandatory belts. Several states have considered such laws, but they went nowhere.

Already cries can be heard that the government is butting into private matters. In the current "Car and Driver" magazine, a monthly for car enthusiasts, a writer shifts into a high gear of outrage. He mocks even the mild, non-mandatory efforts at belt use as "ham-fisted programs to dragoon the public into using them." As for officials pushing mandatory laws, "Car and Driver" says "these public benefactors forget one point; perhaps Americans don't want to use seat belts. Naturally, the options of the body politic are of little concern to (these officials), and they are therefore prepared to ram seat belt ignition interlocks, air bags, air bag seat belts, etc., down our throats whether we like it or not. This involves a dangerous invasion of privacy and the interference with personal freedoms. . . . My usage of a belt is a personal thing; it has only the remotest and basically irrelevant relationship to other drivers and pedestrians around me. It should be my option whether I want to gamble injury in a crash. . . . Right or wrong, good or bad, safe or unsafe, the government has no role in protecting my personal safety in an automobile, and has done nothing other than make me resentful."

It is unknown whether this resentment was shared by the 20,000 killed last year because of no belts. It is known, though, that many drivers outside the United States, where the car mania is less gripping, see arguments about government interference as absurd. Australia has had a compulsory safety belt law for two years, and already the results are unarguable, the death rate is down 23 per cent. Before the law, only 25 per cent of the country's drivers bothered to belt. By recent estimate, 85 per cent of metropolitan drivers are complying and 64 per cent in rural areas. Public acceptance of the law has been calm. The Minister for Transport in Sydney has said: "We appealed for two years to people to wear seat belts, and human nature being what it is—we're either too tired, or forgetful, or too lazy—We don't use the belts that are there. When the regulations came in we gave a period of grace, I think it was a little over a month, with maximum publicity, and there has beeen this massive acceptance, almost unanimous acceptance, of the seat belt law." The editor of the Melbourne Age reported that "I get something like a thousand letters a day from readers, and they come on all sorts of subjects. But (the seat belt law) has provoked nothing but general support."

The "individual's rights" argument, as made by "Car and Driver" and others, was called ridiculous by John W. Garrett of the Cornell Aeronautical Laboratory's transportation research department in Buffalo, N.Y. He cited speed limits, traffic signals and highway dividers as other "infringements" imposed by the government on the free and happy American driver. Moreover, "there is further justification for mandatory safety-belt usage, despite the argument of some who may claim an inherent right not to wear belts. This lies in the point that persons injured or killed needlessly through failure to wear belts impose a burden on society in many ways. At the accident scene, police, fire department and ambulance personnel are needed, making them unavailable for other duties. They also run the risk of additional accidents, endangering them and others as they travel to the scene." There are also the doctors and nurses who must treat the maimed and dying, when they could be elsewhere in the hospital. It is strange that in all the talk about America's health care crisis, little is said about such devices as seat belts as a way of preventive medicine and a way of keeping the hospitals from being clogged.

Such groups as the American Safety Belt Council, insurance and automobile companies are supporting the DOT mandataory proposal. One irony is that when car buffs go to their speed tracks—the Indianapolis 500, Daytona, the NASCAR circuit—where drivers are freed of red lights, speed limits, dividers and other "infringements" to individual liberty, what do the racers wear but the safest seat belts imaginable? The government is only trying to duplicate that. It realizes that American highways have become speedways, so why not belt up in the style of Mark Donohue, Richard Petty and Mario Andretti?

REASON FOR FAILURE TO VOTE ON NOMINATION OF PETER J. BRENNAN

Mr. ERVIN. Mr. President, yesterday the distinguished Senator from Florida (Mr. CHILES) and I failed to vote on the nomination of Peter J. Brennan to be Secretary of Labor because we were conducting a hearing on bills relating to the impoundment of appropriations by the executive department in the hearing room of the Dirksen Office Building and did not hear or see the signals announcing that a vote was being taken on the nomination.

LOOKING BACK ON A TRAGIC WAR

Mr. MONDALE. Mr. President, the Minneapolis Tribune on January 28, published an article by its distinguished correspondent, Ronald Ross, who covered the war in Vietnam for many years.

Perhaps better than anything I have read in recent days, this article portrays the irony, anguish, and tragedy of the Nation's involvement in Southeast Asia during the last decade, an involvement which thankfully is now coming to an end.

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:

FOR THE VIETNAMESE: A SILENT PRAYER

(By Ronald Ross)

Well, that's it. President Nixon finally has negotiated the withdrawal of American troops from South Vietnam and the release of American prisoners of war.

No champagne and rockets Tuesday night. No victory day Wednesday. Just relief: We're getting out. And sadness for the untold dead and the misery it all has wrought.

For the reporter, the war in the South never was a war like, say, World War II. Mostly it was a disconnected, unrelated series of small and nasty engagements: bursts of rifle and machinegun fire, the sudden explosion of hidden mines and booby traps, the distant holocaust of a B52 raid, the swooping of jets on jungles from which flames of napalm would leap like suddenly blooming flowers, red fire, black smoke.

It made sense only on the acetate overlays where wax crayons, red, green and blue, neatly delineated dispositions that you knew to be untrue and lists of body counts, scored like gross national products, that you knew to be lies.

Well, for Americans, at least, all that's over in South Vietnam. And you're left with some strange, vague feelings, wondering still about what it all meant when you were there: the heightened emotions, the constant questioning, the disgust, the anticipation.

You remember the war talk at dinners with colleagues (some now dead) in French restaurants, the loneliness in the midst of crowded Vietnamese bars, the martinis that came to symbolize the safety of your hotel room, the comradeship of a colonel who served champagne on your birthday, the gut feeling that this was the real world, awful and rich.

And you remember the choking moments of fear under fire, and the fear that followed that you may move your bowels; the long hours of boredom at dusty aiports and the sudden rages at brutality and incompetence alike.

And the Vietnamese? What will happen to those you got to know well, to love and respect? The Vietnamese woman who so often guided you through the jungle of Saigon politics; the doctor who could tell you more about Vietnam in five minutes than the American Embassy could in five years, and young Bao, your first and last good friend, who had a dream that one day his son would take a train from Saigon to Hanoi. What will become of them?

And what of the simple but sophisticated people you squatted beside in their well-swept bamboo huts in the Delta; and the students at Hue University who were caught between the Viet Cong and Saigon; the province chief who shared an evening with you, talking of Confucius and local government as a giant moon drifted over the South China Sea? What of them?

The American involvement will be bitterly debated for years to come. The full cost has yet to be counted. Pride and shame contend for the national conscience. It was a tragic folly, some will say. We had no quarrel with these people. We were right in what we did, others will say. Communism and aggression had to be contained.

For the Vietnamese: a silent prayer. For them, it's just another beginning. The agreement leaves unanswered the question: "Who is going to control Vietnam?" That's what the war was all about. We're going to leave the answer—where the French left it almost two decades ago—to the Vietnamese.

And so ends, we trust, an American war that did for America what the Boer War did for the British: weaken the confidence of its people in their vision of what they ought to be.

It was a war America could not—and did not—win, unless America physically destroyed Vietnam, and that, as Eric Sevareid said Tuesday night, "was beyond the spiritual means of the people of the United States."

But it was a war many Americans were unwilling to lose; so, on and on and on it went, long after the illusions that nurtured it were shattered, until, at the last, its overkill was sustained only by personal and national prestige.

ON THE FUTURE OF PUBLIC TELEVISION

Mr. BROOKE. Mr. President, I am concerned about the uncertain future of perhaps the most promising medium of communications and information in this country today, our public television system. Public television in the United States has grown from the pioneering efforts of isolated, noncommercial broadcasters scattered across the country to a system of more than 200 stations broadcasting high-quality programs produced at the local, the regional, and the national levels. We are all familiar with such national successes as "Sesame Street," the "Masterpiece Theatre" series, William Buckley's provocative "Firing Line" program, and the excellent coverage of the 1972 campaign. These examples of what public television can achieve are mere glimpses of the potential of noncommercial television.

Six years ago, Congress formally recognized the progress and the promise of public television by passing the Public Broadcasting Act of 1967, which was to be the first steps toward a politically independent, adequately financed national system of public television stations. The act established the Corporation for Public Broadcasting and charged it with the responsibility for assisting the Nation's public TV stations. The Corporation was to support the production of programs for national viewing and to help develop a system to interconnect the stations.

Today the dream embodied in that legislation is seriously threatened. It is threatened because the basic principle underlying the Public Broadcasting Act—the principle of independence and autonomy for local stations within a national system—is being undermined. Along with this vital principle, the intent of the Congress is being undermined.

According to the Public Broadcasting Act, the Corporation for Public Broadcasting was intended to serve the public TV system and to help it grow by supporting stations and producers with Federal funds and by assisting in the establishment of an interconnection system among the public TV stations. The Corporation was specifically forbidden in the legislation from operating this interconnection system itself, for clearly, whoever controls the interconnection determines what programs will be made available to stations served by the interconnection. The intent of the Congress was clear: The Corporation for Public Broadcasting, as the dispenser of Federal funds, was not to control the selection of programs for distribution.

In order to carry out the intent of the legislation the Corporation and the stations together created another body, the Public Broadcasting Service, to operate the interconnection. PBS was created as a membership organization, funded by the Corporation for Public Broadcasting but answerable to and controlled by its members—the stations. In this way, the program support function, which was clearly within the Corporation's mandate from Congress, was separated from the distribution function, which was put in the hands of PBS through the member stations.

Regrettably, station control over the interconnection now appears to be in jeopardy. The Corporation for Public Broadcasting, on January 11, 1973, announced plans to assume full and active responsibility for deciding not only what programs it will fund, but also for deciding what programs will be distributed to the station via the interconnection, regardless of the source of funding for these programs. If the Corporation proceeds with its announced intention to assume all programing responsibility for itself, I fear that the local stations will lose not only the voice they have had in controlling the operation of the interconnection but also the vital insulation from those outside pressures that would necessarily be brought to bear upon a Government-funded, centrally controlled broadcasting operation.

The matter of local station control of the public television system is important for the future of public broadcasting in another important regard—that of long-range financing for the system. Last June, the President vetoed a bill which provided for 2-year funding of the Corporation at increased funding levels. In his veto message, the President expressed concern that the Corporation for Public Broadcasting was becoming "the center of power and the focal point of control for the entire public broadcasting system." The President made it clear that he would not approve legislation providing long-range financing if that legislation failed to place adequate emphasis on localism, since the individual local stations are closest to the communities they serve.

I agree wholeheartedly that the individual stations should control the national public television system, and that is why I am both amazed and concerned by the action of the Corporation for Public Broadcasting in assuming even greater centralized control over the system, in apparent violation of the limitations imposed by the Public Broadcasting Act. Control must and should remain

in the hands of the stations and in mechanisms they establish and support to strengthen their capability to serve numerous and diverse communities.

The future of public television must not become a partisan issue, for the principles at stake are of too great importance. We are concerned here with nothing less than the free flow of information to the public and the free expression of ideas. While the intentions of the board members of the Corporation for Public Broadcasting may be entirely honorable and praiseworthy in assuming control of the national distribution process for public television, it is clear that the Corporation is overstepping the limitations imposed by the Congress.

At the same time, the Corporation is setting a very dangerous precedent. For when one hand controls the Federal funds and also controls distribution power for public television we will have in appearance and perhaps in fact a domestic Government network. It would be unworthy of this great body to sit back and watch the promise of a free and independent public television system thwarted in the name of "safe" or "inoffensive" programing.

FREE PRESS AND THE PUBLIC'S RIGHT TO KNOW

Mr. MUSKIE. Mr. President, events of recent days have once again dramatized this administration's campaign against the public's right to know. The first amendment's protection of freedom of the press is designed to safeguard our right to a free flow of information, by prohibiting Government action which has a chilling effect on the free press. Whether the press is right or wrong, the Constitution, our courts, and generations of Americans have accepted the principle that reporters should have confidence to write about public issues without fear of reprisal.

I was distressed to learn of the FBI's arrest yesterday of a reporter who said he was merely performing his job—reporting the facts. This action appears to be the latest in a disturbing trend of administration actions designed to chill the freedom, independence, and imagination of our free press. This trend began with the 1968 campaign and has taken many forms—intimidation of network newsmakers, apparent vindictiveness toward our nascent but creative public broadcasting system, threats of politically motivated broadcast licensing decisions, and the unprecedented imprisonment of news reporters who refuse to disclose unreported information or their news sources.

We will not know all the facts behind yesterday's arrest until they are brought out in court and, of course, we cannot yet pass judgment on this case. But preliminary reports indicate that by its action the administration has opened up a new front in its campaign against the first amendment. National security was admittedly not involved and no complicity in the theft of Government documents has been alleged. From what we now know, this arrest opens the possibility that a statute designed to prevent criminal traffic in stolen property will in the future be used to stop reporters from investigating and disclosing any information that the Government wishes to hide.

The media are not always accurate, always objective, or always fair. But they must be free to write and report what in their judgment deserves to be said. And they must be free from fear that an angry administration will take vindictive measures against them.

To me, the mounting administration campaign against our free press is of greatest concern. I was pleased that the Democratic caucus yesterday unanimously endorsed a thorough freedom-of-the-press investigation by the Judiciary Committee. I hope that the planned investigation will, indeed, study each of the issues I have raised and will recommend to us with dispatch concrete measures we can take to protect the free press and the public's right to know.

ROBERT BALL'S RESIGNATION AS SOCIAL SECURITY COMMISSIONER

Mr. CHURCH. Mr. President, the news that President Nixon has accepted the resignation of Social Security Commissioner Robert Ball causes both regret and concern.

Mr. Ball has been an able, farsighted, and unpartisan administrator. During his 10 years as Commissioner, our social insurance system has been broadened widely, and the medicare program was placed in his capable hands.

Every month, 21 million people of age 62 and over receive benefits from the Social Security Administration, as well as 5.1 million children and mothers who draw survivor benefits, and 2.2 million disabled beneficiaries and wives.

So go the statistics. But to Robert Ball, the real story of social security is how it makes life better for the people it serves. His attitudes and his convictions, were clearly expressed recently before me and other members of the Senate Committee on Aging last month at hearings on "Future Directions on Social Security." Once again I was impressed by his historic contribution to the well-being of all Americans.

At that hearing, I expressed regret that President Nixon had decided to accept Mr. Ball's pro forma letter of resignation, especially at a time when the Social Security is preparing for broad new responsibilities voted by Congress in 1972. Other members of the committee expressed similar sentiments and made it clear that Mr. Ball's successor would be judged by the high standards he set. As has so often been said, there is no room for politics in the Social Security Administration.

Mr. President, I ask unanimous consent to have printed in the RECORD several articles which comment on Mr. Ball's departure. I also submit an article in which Mr. Ball describes his firm belief that the fiscal and administrative integrity of the Social Security Administration will remain secure if we stay on our present path.

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

[From the New York Times, Jan. 8, 1973]

DEFENDER OF THE AGED

In his decade as Social Security Commissioner, Robert M. Ball has demonstrated both administrative competence and social imagination of a high order. He came into the vast Federal insurance program for protection of the aged and disabled not long after its establishment in 1937. His subsequent career entitles him to rank alongside the late Arthur J. Altmeyer, the first head of the Social Security system, as an official who knew how to translate dreams into an efficient, corruption-free program.

The distinction of Mr. Ball's service makes it difficult to understand President Nixon's decision to speed his departure from Government just when massive new administrative problems are about to descend on the system in connection with the Social Security changes voted by Congress last year. We share the hope voiced by Chairman Mills of the House Ways and Means Committee that the dropping of Mr. Ball does not signify an Administration desire to "politicalize" Social Security. Perhaps his greatest contribution was keeping that multi-billion-dollar program totally free from any taint of politics.

[From the New York Times, Jan. 25, 1973]

POLITICS, POLITICS EVERYWHERE

(By Wilbur J. Cohen)

(Wilbur J. Cohen, dean of the school of education at the University of Michigan, was Secretary of H.E.W. in 1968.)

ANN ARBOR, MICH.—The recent forced resignations of key personnel in the department of Health, Education and Welfare is an ominous omen of worse things to come.

The termination of Dr. Robert Q. Marston, the distinguished director of the National Institutes of Health, has already been viewed by scientists as the possible politicalization of the institute, which no previous Republican or Democratic Administration has ever attempted. Dr. Marston had been recognized as a nonpolitical and able administrator of an important, difficult and scientific assignment. No reasons were given for his termination from a position so vital to continued expansion of our medical research capacity.

The resignation of Robert M. Ball, the outstanding commissioner of Social Security, is a further recognition that the Nixon Administration fails to understand the importance of retaining its key administrators in its key programs. The Social Security program has always been run on a nonpartisan basis. There has been up to now no political interference in the program by any Administration since it was established in 1935. Ball's superior competence has been recognized by all previous secretaries of H.E.W. His departure prior to the implementation of the massive and far-reaching legislation recently passed by Congress and approved by the President is premature and unfortunate. Next year, total expenditures under Mr. Ball's supervision will exceed $70 billion.

Certainly, changes in personnel in governmental programs are desirable and inevitable. But there is a difference between wholesale and retail changes. The Nixon Administration appears to be trying to tell employees in the various departments that they must recognize who is the boss—the White House.

Government programs such as medical research and Social Security must depend upon the professional competence and morale of the employees who administer them. This is a delicate, sensitive and precious set of elements. It may take many years to build; it can be destroyed in a moment. There is a lack of understanding in high places of the political importance of nonpolitical administration of services vital to the American people.

Prof. John R. Commons, the distinguished labor economist of the University of Wisconsin, used to tell his students that an inadequate law which was well administered was to be preferred to a good law, badly administered. The Nixon Administration appears to want to prove that it can administer good laws badly on a reduced budget without first-class administrators—a dangerous experiment.

The forced resignations of many able persons in other agencies of government—such as the Commissioner of Labor Statistics, Geoffrey Moore—tend to support this dismal conclusion. The Commissioner of Labor Statistics is a four-year-term appointment. No other Commissioner of Labor Statistics in any previous Administration has been asked to resign before his term expired. In 1969 the Nixon Administration also fired the chief of the Children's Bureau which no Administration had ever done in the 57-year, nonpolitical history of that bureau. No Administration has such a record of interference in statistical and early childhood development programs.

These personnel changes must be viewed in terms of the repeated White House interference and reversal of Secretary Richardson's recommendations, to name but two: the rejection of his compromise with Senator Ribicoff on the welfare-reform bill, and the lack of consultation on the veto of the Hill-Burton hospital construction amendments.

Coupled with the unprecedented Presidential vetoes of H.E.W. appropriation bills, and the attack by John D. Ehrlichman of the White House staff on the employes in the department prior to the election, why should competent men and women of stature and integrity take any of the jobs vacated? The health, education and welfare of all of the American people are too important to be sacrificed for political purposes.

[From the Evening Sun, Jan. 25, 1973]

BALL SAYS SSA PROVES GOVERNMENT CAN WORK

(By Anne S. Philbin)

Robert M. Ball, retiring commissioner of Social Security who has served three presidents, hopes Americans will remember that social security "is at the very least, a big exception" to widely expressed views that government isn't working.

"There seems to be a lot of feeling today," he said in a farewell interview in his ninth floor office at Woodlawn, "that federal programs, particularly many Great Society programs, are not working well.

"If this is true, and I am sure it is," he added, "I think Americans shouldn't forget social security is a big exception.

"It is by far the largest of federally financed programs in the area of health, education and welfare, and accounts for almost one-fourth of the country's entire budget."

Explaining this, Mr. Ball said that in 1974 the Social Security Administration will be paying out about $70 billion, with one out of every eight Americans in the country receiving a monthly check.

The $70 billion figure includes $54.73 billion in social security cash benefits, about $10 billion for Medicare payments, $408 million in "black lung" benefits to miners and their widows and children, and an estimated $3.5 billion to be paid out under the Supplemental Security Income program effective January 1, 1974, for the needy aged, blind and disabled.

MINIMUM INCOME

SSI guarantees a uniform minimum income of at least $130 a month for an individual and $195 monthly for a couple; it is a 100 per cent federally financed and federally administered program.

Mr. Ball said he believes SSI is a "very good addition to the social security law. The federal payments will be higher than those now paid by more than half the states," he said.

"The amount is getting closer to what people need to live on," he added, "and certain onerous and restrictive features of some state welfare assistance programs such as home lien laws, will be removed."

Mr. Ball said he thinks social security cash benefits, which have increased more than 70 per cent in the last five years, have "reached a new level of adequacy."

"We now have the automatic provision which will keep benefits up to date as the cost of living goes up. Also, benefits rise as a worker's earnings rise. Medicare coverage has been broadened to include disabled persons under age 65.

"Over a hundred other changes in social security and Medicare have improved the protection of present and future workers and their families. Americans are paying more but they are getting more," he commented.

SOUNDLY FINANCED

Mr. Ball said the social security program is "completely and soundly financed, under present law, to the year 2011."

Touching upon administrative policies and leadership which have molded the Social Security Administration into what President Nixon has called a "model for other government agencies," Mr. Ball said he is very proud of a number of things that have happened during his 11-year tenure as commissioner.

"We have made a great deal of progress in training minorities for better jobs with SSA, opened up more career opportunities for women, pioneered in fair housing for our employees, sponsored a volunteer program whereby our employes respond actively to community needs, and supported a substantial education program.

"We have a strong union (American Federation of Government Employes, Local 1923) which does a good job in protecting employes; it is aggressive, but responsible," Mr. Ball said.

"And I think SSA has had a positive impact on the Baltimore area in the 19,000 jobs it presently provides here plus the 3,000 that will be needed to implement the recent legislative changes."

NEW BUILDINGS

Mr. Ball said the agency's expansion program would include new buildings "here at Woodlawn and also in downtown Baltimore."

Although he said it would be difficult to leave SSA at this particular time in history when the agency faces major problems in implementing H.R. 1's legislative changes, Mr. Ball indicated his departure was a "mutual agreement" between the President and himself.

He said he plans to write, answer questions raised by those who attack the social security system, and help in the development of long-range policy on national health insurance. On the latter, he said "the question today is not if we need it, but how we can accomplish it."

Mr. Ball began his federal career in 1939 as a field assistant in a New Jersey district office at an annual salary of $1,620. He worked his way up through the ranks and by 1954 had become deputy director of the former Bureau of Old Age and Survivors Insurance. Through government reorganization, this bureau was to become the Social Security Administration in the early sixties.

Since April, 1962, when President John F. Kennedy appointed him commissioner, Mr. Ball has been serving "at the pleasure of the President for the time being."

SHOCKED SURPRISE

Between then and now, he has submitted four pro-forma resignations to Presidents Johnson and Nixon. When the fourth was accepted by the White House early this month, the announcement was greeted in SSA and official Washington with shocked surprise, principally because Mr. Ball is as respected for his management leadership as his knowledge of social insurance.

He is also well-known and well-liked on Capitol Hill, having testified at every congressional hearing on social security since the early Fifties.

In describing the qualifications needed by his successor, Mr. Ball, in the judgment of his peers, has used the words they would use to best describe him.

"He should be someone with experience in running a large federal agency, he should be nonpolitical and a humanitarian."

During his 30 years of federal service, Robert M. Ball has placed his indelible stamp upon the social security system. Of all the schemes generated to promote the welfare of the nation's people, social security stands almost uniquely in its absence of associated scandal and accomplishment of its mission.

IMPORTANCE OF FREE FLOW OF INFORMATION

Mr. BURDICK. Mr. President, I invite attention to an article entitled "Like Tigers," written by Erwin D. Canham, and published in the Christian Science Monitor of January 15. Mr. Canham has discussed the importance of a free flow of information to American society. I recommend this thoughtful article to the Senate and ask unanimous consent that it be printed in the RECORD.

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

LIKE TIGERS

(By Erwin D. Canham)

These are complex days, filled with grave decisions that have to be made by individual people as components of the public opinion on which free society rests.

That is why adequate informing of the public is so essential.

That is why the darkness regarding Vietnam is particularly distressing. Until the darkness is dispelled, the public's decisions are inevitably based on emotions and observations which may not be fully founded on fact.

And that is why the press—printed and electronic—is so very disturbed at growing and grave limitations on its capacity to find out what is going on and informing the public about it.

There is plenty of evidence that the First Amendment in the Constitution's Bill of Rights, which guarantees the freedom of the press, is in danger.

The evidence lies in the inaccessibility of news sources, primarily and overwhelmingly the President; the various pressures being brought on journalistic critics of the President; the efforts to weaken the radio and television networks' news and analysis services; the decisions of the courts to impede news reporters' access to sources by punishing them when they protect the secrecy of certain sources.

NO ABSOLUTE RIGHTS

It is readily agreed that the rights of a free press, like nearly all other rights, are not absolute. Sometimes an individual's right to a fair trial, or the right of privacy, or the duty of citizenship in exposing criminals or protecting the national security, come ahead of freedom of information.

But just because the conflict of rights is ill-defined and variable from case to case, the press must struggle constantly to protect not its own rights but the rights of the people. The press may seem paranoid in the battle for freedom. So it must be.

In the words of Judge Harold R. Medina,

whose services on the federal bench are many and memorable:

"Some people may think that the leaders of the free press would perhaps accomplish more if their claims of constitutional right were less expansive. I do not agree with this. I say it is their duty to fight like tigers right down the line and not give in an inch. This is the way our freedoms have been preserved in the past and it is the way they will be preserved in the future."

AN ADVERSARY ROLE

The people's right to be informed depends on the press's vigilant and responsible performance of its task. The role of the press in relationship not only to government but to all other "establishment" elements is essentially an adversary role. It was not for nothing called the "fourth estate" by Edmund Burke and others. It must report, investigate, uncover, analyze, and praise or criticize just as the best-discerned facts require.

The press is often careless, sometimes wrong, generally subjective in its choice of what to print or air, frequently sensational for sensationalism's sake. It is an imperfect tool. But with all its flaws, it is an absolutely essential element in a free society.

IT WILL SURVIVE

It will survive. It will outlast those who may from time to time seek to tame it.

The public everlastingly criticizes the news media. For several decades there has been a great lessening of diversity, with no single channel of news or opinion necessarily matching the prejudices and biases of plenty of people. The opinions of columnists or commenators will not fit more than a fraction of an inevitably and desirably divided public.

News media are increasingly involved in a crisis of confidence with their public. This is a far greater problem for them than any hostile efforts of government. It can be mastered as their performance is fair, courageous, skillful. The attacks upon them at various levels of government are less vital than the deliberate blocking of news sources. To keep open the channels of information is in these days a high duty of citizenship.

MILITARY UPSET ABOUT INVESTIGATION OF SERVANTS

Mr. PROXMIRE. Mr. President, the General Accounting Office is currently investigating the use of enlisted men as military servants by high ranking U.S. officers.

This investigation is proceeding in two stages. In the first stage, the GAO compiled data from the military services about the number of enlisted men serving in servant-type positions, their pay scales, promotion rates, ethnic composition, place of assignment, and cost to the taxpayer. Preliminary information was provided relating to the military regulations involving the use of military men as servants.

In the second phase, the GAO will collect interview data.

SERVANTS AT TAXPAYER EXPENSE

The initial GAO report contains some alarming facts. For example, 98 percent of the enlisted men serving in servant-type positions in the Navy are Filipinos. Sixty-five percent of this category of men in the Marine Corps are black.

The direct costs to the American taxpayer for basic pay and allowances alone come to $13 million a year. For this sum we provide 970 admirals, generals, and Navy captains with personal aides. These aides are assigned on the basis of rank and priviledge. A one-star general gets one aide; two stars, two aides; three stars, three aides. The Joint Chiefs of Staff can have as many as eight enlisted men serving them each.

MILITARY REACTION TO THE INVESTIGATION

The military has reacted strongly to this exposure. Enlisted men on several bases have been warned by their officers and the officers' wives that they should be careful what they tell the Congress and the General Accounting Office. Implied threats have been made. There have even been requests that officers be allowed to "sit in" on interviews with enlisted aides to "monitor" what is going on.

Why is this informal, unofficial harassment going on? The question is not difficult to answer. The military, over the past generation, has acquired a system of privileges unique to that organization. At a time when military pay was extremely low, there was some justification for these "perquisites" as the military call them. Now, however, pay has increased dramatically. For example, a lieutenant general or vice admiral, of which there are 144, receives $33,685 in basic pay plus $2,775 in tax advantage, $575 in subsistence and $3,450 in quarters for a total of over $40,000. Clearly "perquisites" such as providing personal servants are no longer necessary.

If they want domestic servants, they should pay for them out of their own pockets. Nowhere else in Government are gardeners, valets, drivers, cooks, housekeepers, and bartenders provided at public expense. And yet this is common in the military.

This then is why the Pentagon is so upset about this investigation. It strikes too close to home. You can criticize a weapon system or an inefficient procurement practice, as have many qualified men in and out of the Pentagon, and that creates a stir. But try to take their servants away from them and you are attacking the very basis of privilege.

FORCED ENTERTAINMENT

It has been pointed out that high ranking military officers are sometimes forced to provide entertainment to visiting dignitaries, be they congressional or diplomatic and, therefore, a requirement exists for enlisted men to assist in this activity.

Two points are relevant here. First, visitors should be going about their business instead of bothering the military. Many of these trips simply are not necessary. I, for one, do not go on trips overseas at taxpayer expense.

Second, in the few cases where a certain amount of entertainment is unavoidable, the function should be catered and the expenses justified. Wherever possible, guests should be required to cost share in these situations out of their own trip funds.

CIVIL WAR PRECEDENT

In a recent letter to my office, a former brigadier general pointed out a Civil War public law dealing with military servants. Public Law No. 165, section 3, passed on July 17, 1862, stated that—

Whenever an officer of the Army shall employ a soldier as his servant, he shall, for each and every month during which said soldier shall be so employed, deduct from his own monthly pay the full amount paid to or expended by the Government per month on account of said soldier; and every officer of the Army who shall fail to make such deduction shall, on conviction thereof before a general courtmartial, be cashiered.

Although that provision is no longer law, its thrust is clear enough today. If officers want servants, let them pay for them out of their own funds. Perhaps this law should be reinstated.

Mr. President, I ask unanimous consent that a letter be printed in the RECORD that points out just how unfair the present military servant situation has become. The writer's name is not attached to protect him from retaliation and harassment. The term "POV" referred to in the letter means a privately owned vehicle or personal car.

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

Senator WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SIR: I am writing in regards to your issue about generals having GI servants. I previously worked as an aide for three generals, and, sir, the job that a soldier has to perform is not the way it was written in the regulation. There are some of the duties of an aide such as walking the dog, washing the car, cleaning the bathroom, mopping floors, making beds, washing clothes and ironing, shopping, running errands for the wife and cleaning up behind the wife, what is so bad is when the wife takes a bath, afterward she calls you to clean the bathtub. Sir, if the general has children, you are mother and father to them; when it is raining, the aides take them to school in his POV and other places they want to go and sometimes a man has to stay and babysit the children. When the general's wife decides to go shopping, she takes the aide along with her so that he can push the shopping cart.

Sir, the general doesn't have a household aide, he is for the general's wife's convenience. When a general needs an aide, the command will come out with something like the general needs a cook, and, when a person goes up for an interview, they will tell you how nice it is to work for a general as an aide. An aide never gets very much time off like the other soldiers and never spends much time with his own family. When the general has a party, the aides do all the work for it and you work all day and almost all night, you might get a half day off. Sir, I think that the general officers are making too much money to be wasting taxpayers' money by having enlisted aides. Sir, I am making a career out of the Army and hope that my name will not be put in the newspapers and this will not have any bearing on my career.

MEXICAN-UNITED STATES RELATIONS

Mr. CHURCH. Mr. President, a significant speech on Mexico-United States relations was given last week by Mexico's distinguished young Ambassador to Washington, Jose Juan de Olloqui. He urged that the three outstanding problems between the two countries be resolved as soon as possible: First, the salinity of the water of the Colorado River; second, the illegal border crossings of migrant workers; and third, clos-

ing the gap in the unfavorable combined trade and tourism balance.

I ask unanimous consent that Ambassador Olloqui's address before the Inter-American Bar Association be printed in the RECORD.

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

ADDRESS DELIVERED BY JOSE JUAN DE OLLOQUI

In about a month, on February 18, it will be two years that I had the pleasure of speaking to this forum of distinguished colleagues. My late academic pursuits have taken me to the field of economics, but t sically, and first of all, I am a lawyer. In economic parlance I may say that my infrastructure is that of a jurist.

On that occasion the title of my talk was "Some Reflections on the Climate for Foreign Investment in Latin America". I incorporated in it, elements of the Mexican experience, as well as some considerations on the positive legislation of my country, and on the philosophy prevailing among the Mexican people on foreign investment. I commented on the meaning of the term "Mexicanization" compared with nationalization. I mentioned our displeasure for the purchase of some sound Mexican industries by foreign investors; our interest in having capital in partnership with domestic capital; the convenience of receiving new technology. In short, I intended to give a panoramic view of this important question.

Those, and some other viewpoints of the immense majority of the Mexican people were correctly interpreted by their President and have been gathered in two bills before the Mexican Congress, one to promote Mexican investment and to regulate foreign investment and, the other, which has already been approved, to establish a registry for the transfer of technology and the use and exploitation of patents and trade marks.

These bills before the Congress and the recognized stability of our Government, are, and will be, the best warranty that the foreign investor will have, to channel his resources toward my country, under the established norms, because they are a clear reflection of the attitude of the Mexican people on this subject.

The bill on investments, furthermore, clears the doubts of prospective investors. They had been insisting in different forums, both inter-Governmental and of the private sector, that those sections applicable to investments by foreigners, which appeared in several laws and regulations be incorporated into a code for easy consultation and understanding.

In this regard I wish to state that the Mexican economy shows in 1972, according to preliminary estimates, a growth in real terms in excess of 7%. We are striving to make this growth more qualitative and not only quantitative on a climate of social justice, which is the basis for the permanence of progress and stability.

As a matter of fact, Governments to attain true democracy should rest on a foundation not only of suffrage—which may be deceiving if the election possibilities of the electorate are limited—but also in the access to power of the great masses, knowing that their voices and their needs will be heard and acted upon by those heading the Government. Therefore the benefits derived from economic growth should be spread, so that they will reach the greatest number of people, preserving the quality of life, our own idiosyncrasy and our liberty.

We have a great advantage in Mexico to have a popular and populist Government. It is not enough for the Heads of State to be popular. Their Governments should be populist. From this situation flows the power that the Governments of Mexico have exercised since the Revolution.

The Mexican way of doing things has transcended our frontiers. Few countries have presented principles so just and clear as those of Mexico. None of those principles is based on the imposition of rules of conduct to other nations, regions or hemispheres. On the contrary they recognize the independence and self-determination of States. In brief, all those principles are based on peaceful solutions, in solidarity and cooperation with other countries and the observance of the statutes of the United Nations.

Not only has Mexico reiterated those principles in all forums, but in all cases we have adjusted our conduct to them. In that way, Mexico raised its voice protesting in the League of Nations when Ethiopia was attacked. In the same manner we defended the Spanish Republic and we have protested every time there has been a violation of the Charter of the United Nations.

At present and in the future, it seems that economic relations will be more important as a general norm and in the intercourse among countries. To this effect, Mexico has proposed the drafting of a "Charter of Economic Duties and Rights of States" to complement the Declarations of Human Rights.

In this way countries will have not only the free disposition of their resources, but also the right to adopt the economic structure that best suits them, without fearing aggressions, knowing that through sound commercial practices they will receive the just retribution for their labor.

With respect to the United States, Mexico has maintained a position of mutual respect and its hand outstretched as a sign of friendship.

Mexico not only has a common border with the United States, but also what we may call a "sister population" of about eight million American citizens of Mexican descent (first or second generation). This places the Mexican-American population in the fifth place among the groups of American citizens of other national origins. This is a population whose problems and destiny are of great interest to us. It is a population of which we feel proud whenever it makes something good. In the same way, we are sure they are proud of the progress of Mexico.

Let us see other points which affect our relations with the United States.

Few people realize that Mexico occupies the 16th place among the more than 120 nations of the world in the value of its Gross National Product. This 16th place includes countries such as Continental China and East Germany with which the United States has no diplomatic relations. The image of Mexico in many not-informed circles, and in others which should be well-informed, is that of a tropical and sleepy country, without taking into account that we are a nation of important production and that in population we occupy the 14th place in the world and in area the 15th. Furthermore, we are by far one of the principal clients of the United States.

Mexico has a per-capita income above 700 dollars per year similar to the majority of countries whose shores face the Mediterranean Sea, with the exception of France, Italy and Spain.

However, it is clear that the interests of the United States, which is a fully developed country, of continental dimensions, could not be the same as those of Mexico, which is in another stage of economic development and with a historically different trajectory which shaped its present political and social structure. For this reason, problems are seen from one country and the other from different angle.

We may and should differ in the way we look at the problems and their solution, but because of that, there is no reason to stop being good friends.

The relations between our countries are excellent and the deterioration that some people claim has occurred in them, is only the result of the changes in position experienced in Mexico because of the dynamism that now, more than ever, is perceptible in our country.

What are the questions that Mexico has pending of resolution with the United States at present?

In first place, it is the problem of the salinity of the water of the Colorado River, which we hope it is on the way to a fair solution for all, in accordance with the interest that we know President Nixon has in it. Mexico has declared that it will be as firm in its position as it is in justice on its side. That is, Mexico would not deviate from its determination to get a just settlement.

We do not wish a greater or lesser quantity and quality of water than that to which we are entitled.

Another important point is that of the migrant workers that cross the border illegally. Without doubt the social-economic laws and furthermore the facts, cannot be ignored: Massive movements of persons, over a quarter of a million a year, make it necessary to reach an agreement between our two countries. There are economic and political factors which make it advisable for both sides.

In respect to trade, I am glad to advise you that we have made some progress in closing the gap in the unfavorable combined trade and tourism balance that we have with the United States.

For instance, in 1970 we had a negative trade balance with this country of 482 million dollars, which was offset somewhat by a favorable tourism balance of 195 million dollars, but that still left us with a negative balance of 287 million dollars.

In 1971 this negative combined trade and tourism balance was reduced to only 93 million dollars, and I understand, that in 1972, according to preliminary figures, the situation may be more favorable for Mexico.

I have great hopes that in the coming years we would be able to register a favorable trade balance, inasmuch as all countries attain their economic development most of all through the income they receive from its exports and tourism.

It is a fact that more than 80% of Mexico's imports consist of capital goods and raw materials for industry and that these imports have contributed to the rapid economic growth of Mexico.

Another encouraging factor in this situation is that both our trade and tourism have registered consistently increasing levels: In 1971 the United States sold us goods worth one billion 600 million dollars and American tourists spent in Mexico 832 million dollars. On the other hand, Mexico sold to this country goods worth one billion 300 million dollars and Mexican tourists spent in the United States 565 million dollars.

In trade Mexico cannot live with a deficit of the size that it has been carrying. A fundamental re-structuring of the basis of our relationship is necessary. To this effect, periodic technical consultations between Mexico and the United States may be one of the immediate solutions.

Mexico understands that relationships among countries, normally should be mutually beneficial. Obviously, it cannot admit that many of the advantages accrue to only one of the parties, in this case the stronger.

Mexico seeks a greater diversification of its trade and closer relations with all peoples of the earth, whichever their ideology.

The position of Mexico before Latin America, as expressed by our President and our Secretary of Foreign Affairs, is fraternal. Our President has visited Chile, Japan and recently the United States. On the other hand he has been visited by the Presidents of Chile, Guatemala, Costa Rica, Honduras, El Salvador, Panama and Nicaragua.

I believe it can be said that the idea of the integration of Latin America, in its best

sense, is one of the dearest ideals of the Government of Mexico.

In accordance with projections, Latin America will evidently occupy a higher place in the concert of nations and not in a remote future, but in the next twenty years, even if it is unable to attain economic and political integration. In any event, there will be in Latin America, important and influential countries and the solidarity which now prevails of presenting a common front to a series of problems, especially of the economic type, will continue.

In effect, Latin America has abundant raw materials and it has and will have enough population. Its problems are lack of technology and capital. Technology can be increased indefinitely and capital can be raised. Then the possibilities are immense. The problem is that of organization.

Geography cannot be changed, but relationships can be changed. It is important, therefore, that our policies will not be circumscribed to immediate ends, but that they will be a chain for the convenience and the importance of future hemisphere relations. There are hemisphere commitments that have to be honored. For this reason, a reiteration or a re-definition of policy is urgent, especially in the economic field. To Mexico, which is highly dependent on its balance of payments, it is most important.

I do not believe, but sometimes I have my doubts, that a crisis or several crises will be a condition, without which the United States will not concentrate its attention on Latin America.

Mexico has plainly defined its policy and its aspirations through the very clear statements of President Echeverria in various forums.

I think that Latin America, in a different way, has done the same thing. It has expressed its desire which essentially is of greater social justice and respect to its sovereignty.

Nationalism and social justice, well understood, are now factors that should be recognized. In the United States it is prosperity and not reform, which has resolved generally the principal problems of the country.

In developing nations, because of their peculiarities, reform is needed to attain prosperity.

Fully conscious of this situation, we believe that this is the moment to seek ways of hemisphere cooperation adequate to the present times.

A new constitutional mandate starts in the United States.

It would seem, therefore, that it is the moment to try to find the formula to deal with the immediate future and the forthcoming decades.

The moment can not be more propitious, considering the particular dynamism now prevailing in international relations.

We hope that this historical moment will not be wasted.

THE SUPREME COURT ABORTION DECISIONS

Mr. BUCKLEY. Mr. President, it was not until I returned from Europe late Tuesday night that I had an opportunity to obtain the full text of the Supreme Court's decisions in the abortion cases. Having now had a chance to review those decisions and to discuss them with others, I am compelled to state that my worst fears have been confirmed. They represent acts of judicial usurpation of an astonishing scope. By these decisions, the Court has not only contravened the express will of the overwhelming majority of our State legislatures; it has not only taken away every vestige of legal protection hitherto enjoyed by the child in the mother's womb; but it has done so through a chain of reasoning which, logically extended, could confer upon the State the right to determine who will or will not be allowed to bear a child.

I have always had a deep and abiding respect for the Supreme Court. But I must say that I have not in my lifetime encountered a more intolerable exercise of judicial excess. Nor have I encountered a judicial decision fraught with greater danger to those humane principles which distinguish civilization from barbarism.

By its decisions last week, the Supreme Court has overturned not only a long line of legal precedent in this country, but more than two thousand years of humane wisdom. It has done so, moreover, in the name of a hitherto undisclosed "right" of privacy; a right which is explicitly or implicitly denied by the laws of not fewer than 46 States; a right which can be exercised only by destroying the life, and therefore the privacy, of another. That abortion-on-request should be tolerated is bad enough; but that it should be elevated to the status of a constitutional right and endowed with the presumptive blessing of the Founding Fathers is, quite frankly, nothing short of scandalous. Will those who read of our great Nation and its love of liberty consider this decision the hallmark of a great civilization, or the badge of decadence?

The opinions of the Court, unfortunately, leave men of conscience no choice but to seek legal redress by all means possible. I have begun to consult with men of science and the law, and with their help it is my intention to introduce, at the earliest practicable date, a constitutional amendment which will undo the damage inflicted by these pernicious decisions.

HARRY S TRUMAN, AN UNCOMMON AMERICAN

Mr. PROXMIRE. Mr. President, one is tempted to treat the man from Independence whom we honor as an ordinary American. We all know his story. From rural beginnings he worked his way up, sometimes failing but never giving up, to a place in life he revered—membership in the U.S. Senate.

Then, a position few have sought was forced upon him. President Roosevelt all but ordered him to join him on the ticket. As we like to think of the ordinary man, Senator Truman accepted out of a spirit of duty. And he became Vice President.

When the responsibility of leading the world through the closings days of World War II was cast upon him that April day in 1945, there were those who were ready to despair over that "ordinary" man.

We all know what happened. The man from the "Show Me" State showed what he was made of. He made decisions many of us would pale before. He made those decisions with careful consideration, but without flinching. He made them courageously.

In addition to courage, he showed his commitment to morality and common decency. He ordered an end to segregation of the Armed Forces.

He was able to display a sense of humor. He could give the press a big "I told you so" after his reelection in 1948.

Those were wild sport shirts he wore. And his daily walks on city sidewalks astonished passersby.

All these things—his courage, his morality, his common touch—endeared him to the "little guy."

Above all, he was himself at all times. He was what he was. And proud of it. That was his dignity. He raised the common values of decency, of caring for others, of knowing oneself—he raised those to something more esteemed.

Everyone knows that Mr. Truman's middle initial stood for nothing. Maybe that S really should have stood for many things: Sagacity, Sangfroid, Savant, Selflessness, Sincerity. He had keen judgment of men and events. He was cool under pressure, knowing where the buck stopped. He was an expert in the workings of politics. He did care for the little people of this great country. He did his job well. And above all, he believed in what he was doing; he was honest with himself and others; he was devoid of hypocrisy.

President Harry S Truman was an uncommon man. I believe historians will see him that way.

THE NAVY AT LAKE PEND O'REILLE

Mr. CHURCH. Mr. President, during the latter part of last year, I received a letter from one of my constituents concerning naval construction at Lake Pend O'Reille, a strikingly beautiful body of water in north Idaho. The lake is among the largest and deepest inland waters in the Nation, and it was utilized during World War II for deepwater experiments.

As all Americans have become increasingly concerned with environmental issues, we of the Northwest, who are fortunate to have so much of our remaining natural splendor at our doorsteps, have become especially alert to incursions on our scenic wonders. I asked the Department of the Navy to provide me a full report on its activities at Lake Pend O'Reille. While the Navy's initial response was satisfactory, it raised several other questions which I then posed to the Department. I ask unanimous consent that this correspondence appear at this point in the RECORD.

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

WASHINGTON, D.C., *September 28, 1972.*

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: This letter is in response to a question raised by one of your constituents, . . . regarding the naval activity in Hope, Idaho.

(Your constituent) was concerned about the ecological impact and the secrecy associated with a "large steel structure" being built in Hope and the rumor that the Navy is planning to explore Lake Pend O'Reille with a submarine.

The construction (your constituent) referred to is a new Sonar Calibration Barge which is being built to replace a similar barge that was sunk in severe storm in January 1972. The construction will be completed in April. Upon completion, the barge will be towed to Bayview. The barge has

wholly self-contained facilities without any discharge into the lake.

The submarine (your constituent) is concerned about is an unmanned non-propelled scale model which is used for acoustic tests.

The model submarine and the Sonar Calibration Barge are very valuable tools in the Navy's research program to improve our submarines by increasing our knowledge and understanding of their acoustic characteristics.

Sincerely,

E. P. WILKINSON,
Deputy Chief of Naval Operations (Submarine Warfare).

WASHINGTON, D.C.,
October 26, 1972.

HON. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: In response to your request of 3 October 1972, the following will give you a brief summary of the history and status of the Naval activity on Lake Pend Oreille.

In 1946, the Navy, recognizing that underwater acoustics would be a decisive factor in the design of superior submarines, began a survey for a body of deep water for underwater acoustic research. After due consideration to such sites as Lake Tahoe, Lake Chelan and Crater Lake each with serious drawbacks for the Navy's purposes, Lake Pend Oreille was selected. It was a natural. It had close to 1200 feet of depth; it was easily accessible and yet sparsely inhabited; it was open practically the year-round and, best of all, it had an unusually quiet ambient noise background, ideal for acoustic research. As additional windfall, several buildings, shops, docks and small boats already existed as part of the Farragut Naval Training Station complex at the southern tip of the lake. Proper application was made to the state of Idaho, its Fish and Game Department and to the Forest Service for permission to operate in the area. Permission was granted to the Naval Ship Research and Development Center (NSRDC) (then the David Taylor Model Basin) to operate from a 45 acre tract at the lake edge in Bayview. The activity is known as the Acoustic Research Detachment (ARD). The area was later reduced by the Navy to the present 22.5 acres in the interest of austerity. Shortly after NSRDC began its operations it was joined by the Naval Undersea Center (NUC). NUC established an underwater sonar calibration facility. In January a support barge for high priority research on our latest sonars was a casualty of a very severe storm on the lake. It is its urgently needed replacement that (your constituent) had noted being built at Hope, Idaho. The Navy has ten small boats and five support barges of various sizes for its experimental work. There are several land based vehicles such as pick-up trucks, grader, fork lifts, ambulance/station wagon and a moving crane. About ten buildings, two docks and an overhead craneway pier make up the main base complex. Anchored about a mile up the lake is NUC's sonar calibration facility. About five miles up the lake is a small installation, less than an acre, that serves the hauldown facility for KAMLOOP, the experimental model submarine.

Insofar as personnel and organization are concerned NSRDC employs seven people; one Chief Warrant Officer, the Officer-in-Charge and the only military man on site; five technicians virtually jacks-of-all-trades; and a secretary. They are responsible to the Ship Acoustics Department at NSRDC, Washington, D.C. NUC employs four engineers and two test mechanics. It is interesting to note that most of these people are local citizenry. During the busier summer months we hire up to four local youths to assist us under a Youth Opportunity Program. Throughout the year many field groups come to use the facilities, not only from the two Navy Centers, but from all sectors of the Navy. Contractors under Navy contracts are also scheduled throughout the year.

Many research advances in the Navy can be attributed to the work done at the ARD in Bayview, and, I might add, with annual budgets of about $250,000 for each Center. For example, significant improvements have been effected by the research in advance submarine and surface ship sonars, in reduction of flow noise and radiated noise, in torpedo design, in countermeasures, in sonar dome design, and in submarine target strength, to name a few. In 1966 a one-quarter scale model submarine, dubbed KAMLOOP after the famous fish in Pend Oreille, was brought to the lake for additional research. It is a clean unpropelled buoyantly rising experimental body. It ejects nothing into the water and generates no untoward noise. It has proven to be and continues to be an excellent research investment for the Navy.

It has been the aim of the ARD to establish a research facility of excellence, yet maintain a low profile at all times. We have gone out of our way to establish good relations with the local people by providing assistance in fire fighting and ambulance service. There is a considerable list of rescue missions on the lake that our personnel have been party to. One of the most heartwarming experiences we have enjoyed was the completely unsolicited honor bestowed by over 300 of the local citizens this past August. It was a human touch that the Navy will not soon forget. I am enclosing a copy of the article from the Sandpoint News-Bulletin.

One other point might be mentioned. The facility has always endeavored to keep the lake as clean as it found it. It is quite pollution conscious. In fact, NSRDC is an excellent example of the Navy's Anti-Pollution Program.

It is hoped that the above summary provides the answers to your request.

Sincerely,

E. P. WILKINSON,
Deputy Chief of Naval Operations (Submarine Warfare).

[From the Sandpoint (Idaho) News-Bulletin, Aug. 2[illegible], 1972]

HONOR NAVY UNIT WITH PICNIC AND ENGRAVED PLAQUE

(By Mrs. Howard Hensley)

In everyday conversation, in the news media, and just in our modern existence it seems that derogatory stories, bad news and the "off" side of life is often the first to be mentioned.

So it gives this reporter a delightful feeling to be able to report that appreciation with a big capital A was shown to the Navy personnel on the south end of Lake Pend Oreille August 15.

The grassy picnic site at the Harold Bates home is on a slight slope. As a person walks across the area it would be convenient to have one leg shorter than the other, or make use of a crutch as I am temporarily forced to do, for a "balancer." According to some guests that was the reason they had difficulty in walking during the picnic.

Another idea ventured was that all of the Bayviewites had been down on their knees all morning, praying for the rain to stop, and therefore they had stiff knee joints.

One character stated that the difficulty just might be traced back to the welcome beverages donated by a beer and a pop company.

Whatever the reason, those Bayview people must be the right sort of folks because the rain did stop at noon and it was a happy gathering of over 300 persons that enjoyed the 6 p.m. picnic. By that time the sun had dried all the excess moisture on the grass, tables and benches. And the weatherman waited until 9 p.m. and the last guests were leaving, before he turned on the sky water faucet again. I might add that he left that rain faucet running all night and added wind, thunder and lightning to the deluge.

Master of ceremonies was Charles Kubu, chairman of the civic committee of the Bayview Chamber of Commerce. Cochairman was Mrs. Nina MacDonald Davis, Hudson Bay Resort. Ham and turkey were furnished by members of the Chamber of Commerce and Bayview residents brought potluck dishes.

The event was held to show the appreciation of the local residents for the services rendered over the years by members of the Naval Ship Research and Development Center Acoustic Research Detachment which is located beside the town of Bayview at Squaw Bay on Lake Pend Oreille. Over a long period of time the naval facility has furnished a fire truck, ambulance and a recently-acquired tow truck for the entire community without cost.

The recent fire which destroyed Cape Horn Resort brought quick action on the part of the fire protection group, according to Dick Morgan, Manager of Cape Horn Properties, Inc. owners of the resort property. Victor Eachon Jr. is fire chief of the naval unit and J. D. Dreisbach is assistant fire chief with the civilian volunteers.

Special recognition was given to the above men in addition to Wally Townsend, Virgil Seeley, Alfred Peck Les Teston, James Fischer, Roland Curtis, Dale Intolubbe, Fred Truex, Garth Farmer, Haven Berg, William Greenfield, Max Krakenberg, and Chief Warrant Officer Richard K. Rohrbacher, officer-in-charge of the naval facility.

A special plaque was presented by Kubu to Rohrbacher, which stated: This award is presented to the Naval installation in appreciation of the many services rendered to the residents of Bayview, Idaho during the past years. By the Bayview Chamber of Commerce and community. August 15, 1972.

Music during the evening was presented by several vocalists, including Morrie Button and Walt Abegg, accompanied by guitarist Tex Aiden (Olando Pergridi). Special guest star was Rod Erickson, MGM recording artist from Fireside Lodge at Spirit Lake.

Special cakes made for the picnic included a flag decorated one by Mrs. Eric Redman and a cake with a miniature fire truck ambulance, and tow truck, made by Mrs. Walter Abegg.

The whole affair was just a wonderful way of saying "Thank You" to a very special group of people. As Kubu said it. "The event was a smashing success and plans are being made to make this type of get-together an annual affair at Bayview."

Mr. CHURCH. Mr. President, I know that every Member of Congress shares my deep concern over the severe public relations problems which confront our armed services. One of the ways that we can help is to pay due recognition to activities which reflect great credit on our military. I am very pleased to say that the Navy's activities at Lake Pend O'Reille certainly merit such attention.

I believe that it is of great significance that the Navy's operations at Lake Pend O'Reille, which involve research essential to our national security, have been carried on with a spirit of cooperation and participation in community life, and with respect for the environment. It is also noteworthy that, with all of this admirable conduct, the Government's publicity mills have remained silent; in-

stead, local media have reported the news of the Navy's good work.

Idahoans are proud to claim Lake Pend O'Reille; we are also proud to have the U.S. Navy sharing it with us.

THE GENOCIDE CONVENTION AND THE CONSTITUTION

Mr. PROXMIRE. Mr. President, ratification of the Genocide Convention will not place the U.S. Constitution in jeopardy, or supersede it in any way.

The Constitution is the supreme law of the land. It cannot be inferior to any law or treaty. Article IV of the Constitution states:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all treaties made or which shall be made, under the Authority of the United States, shall be the supreme laws of the land.

To strengthen this point, the U.S. Supreme Court has written an opinion about the relationship of the Constitution to treaties.

The High Court said:

> To construe this clause (Article VI, clause 2) as permitting the United States to exercise power under an international agreement without observing constitutional prohibitions would permit amendment of the Constitution in a manner not sanctioned by Article V. Reid v. Covert, 345 U.S. 1.

Clearly then the Supreme Court opinion in this precedent-setting case means that the Genocide Convention does not and would not place the convention in a superior position to the Constitution. Any act passed by Congress and approved by the President must conform to the principles set forth by the Constitution. If such is not the case, then the act must be considered null and void.

It seems quite obvious that when a treaty and an act of Congress are in conflict, the latter must be considered superior. This means that if the Genocide Convention is ratified, the Congress could supersede the convention by passing legislation.

Not only is the Genocide Convention subject to the restrictions placed on it by the Constitution and any understandings, reservations or laws the Congress might pass but it will in no way jeopardize the rights and freedoms of American citizens. All the rights set forth in the Bill of Rights remain unchanged.

The Genocide Convention would in no way alter congressional power to enact the appropriate legislation to implement a treaty. This power was discussed in *Missouri* v. *Holland* 252 U.S., 416 432 (1920). Genocide is a crime against the law of nations. Congress is given the power in article I, section 8, clause 10, to define such crimes.

Since 1950 the Congress has approved nearly two-thirds of the treaties enacted in the entire history of the United States. These treaties deal with many types of international concerns, including human rights. Included among those approved are the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; and the Protocol Relating to the Status of Refugees.

The Senate is clearly within its proper jurisdiction in considering the Genocide Convention. I urge its swift ratification.

RETIREMENT OF JOHN KOONTZ

Mr. BIBLE. Mr. President, last month one of Nevada's long-time elected officials, Mr. John Koontz, retired as secretary of state, a position he had held since 1947.

John Koontz spent most of his life serving the people of his State. He was first elected auditor and recorder of Esmeralda County in 1934, a position he held until 1941 when he enlisted in the service during World War II. Following his discharge, he served as assistant state bank examiner for Nevada until his election to the office of secretary of state.

During his 26 years as secretary of state, John Koontz gained an enviable reputation for honesty and excellence. He is, in my mind, one of the most dedicated men ever elected to office.

The high esteem in which John is held by the people of Nevada is reflected in the many laudatory statements about his career which have been carried in the press. One such editorial in the Nevada State Journal sums it up nicely:

> John Koontz, peppery, direct, cooperative and highly competent, is one of the finest public officials who has ever served the people of Nevada.

Mr. President, 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:

JOHN KOONTZ TO RETIRE FROM HIS LIFE-TIME JOB

Possibly the only secretary of state in the 50 states who has a life-time job announced Tuesday that he was resigning from his post, effective Jan. 10.

He is, of course, John Koontz, 66, Nevada's secretary of state for the last 26 years.

The statement Koontz had his job for life is, technically, a figure of speech, since the office of secretary of state is an elective one every four years and any eligible resident of the state can pay his money and take his chances.

The thing is that any observer of the political scene in Nevada will tell you that anyone who wanted to run against John Koontz was doing it just for the exercise—and that included both the members of his party, Democratic, or the Republicans—or those of any other political persuasion.

What it is, one might wonder, that gives a man the rapport with the voters that makes him invulnerable to opposition? Why is it that opponents who have challenged him on occasion through the years learned to their sorrow that running against John Koontz was akin to opposing motherhood?

It certainly wasn't because he was a "conner." If a voter, or anybody, asked John Koontz what he thought about a particular problem he always got a straight answer—and it might not be the answer the questioner wanted, either. But he got it, unequivocally.

Probably one of the major reasons he was so secure in his office, as a matter of fact, was because he never pussy-footed, was never two-faced, but was never cantankerous.

No scandals ever broke out in the secretary of state's office and into big headlines in the press from the time he was first elected in 1946 (without opposition from either party) right up to today.

He always dealt the voters a straight hand, and the voters, as they usually do, knew they were getting honest government and their money's worth in Koontz's department.

Remarked Rep. Walter Baring early this year, on the occasion of Koontz's 25 years in his position: ". . . the record of John Koontz is an enviable one. John Koontz is not a name, but rather an institution."

At the same time Gov. Mike O'Callaghan, then in office a year, told a reporter for the Carson Appeal: I hold John Koontz's many years of public service in high regard. John's work is an excellent example for young people to follow if they truly desire to serve their fellow man."

Said Sen. Howard Cannon: "He has been an inspiration for all those who have worked with him and his warmth and understanding has redounded to the benefit of the state of Nevada."

And from Nevada's senior senator, Alan Bible: "He has been a lifelong friend, having been elected to this high office while I was serving as attorney general for Nevada. It was during those early years I found the voters of Nevada had elected a man who was highly qualified and who would always remain faithful to his office and to the electorate of Nevada."

That "electorate" is apt to be a little skeptical when officeholders praise one of their number on such special occasions, especially politicians from the same party.

But in the case at hand not a single statement made by the four top public officials of Nevada can be challenged.

John Koontz, peppery, direct, cooperative and highly competent, is one of the finest public officials who has ever served the people of Nevada.

MILK PRICES AND PRICE SUPPORTS

Mr. DOLE. Mr. President, yesterday, with the senior Senator from Kansas (Mr. PEARSON) and the senior Senator from North Dakota (Mr. YOUNG), I introduced a bill to require an increase in the price support loan level for milk which by law the Secretary of Agriculture must set between 75 and 90 percent of parity by April 1.

Dairy farmers in Kansas and elsewhere in America are facing a serious situation because prices for the feed grains and soybean meal in their livestock feed have risen at an extremely rapid rate over a brief period of time, while the price our dairymen receive for their milk has not increased by any significant degree. Soybean meal increased from $82.50 per ton last year to $187 per ton today—a 119-percent increase—and feed grains increased 30 percent, but prices increased only 5.9 percent the past year—barely offsetting inflation, and not nearly matching the increased costs.

EFFICIENT OPERATIONS

Dairy farming is one of the most demanding occupations in America. The farmer spends long hours with his animals 7 days a week, 52 weeks a year. There are very few dairy farms today. The average dairy farmer in Kansas milks about 45 cows, and they represent a large investment and financial obligation by him. A dairyman operating an efficient producing unit, maintains detailed production records on each cow in much the same way as an industry maintains records on industrial plants, because of the narrow margins between

his costs and income. He has to know when a cow is no longer making him money so he can replace it with one that does. However, present conditions make it impossible to show profits on any cow. He must show a profit to say in business, and if he cannot make a satisfactory return he must sell his herd and produce another commodity that will provide him an adequate income. This choice—staying in or getting out—faces many dairy farmers at this moment. Because unless they are provided the assurance of an increase in the price support loan for milk, they will be forced to give up their herds.

HIGHER MILK PRICES

Present costs and predictions for the future indicate dairy production costs will stabilize at levels making it impossible for dairymen to operate at a profit under the current price structure. The present price of manufactured milk averages $5.30 per hundredweight. The price support level is $4.93 per hundred weight or 72 percent of parity.

This bill would increase the price supports to $5.76 per hundredweight, approximately 85 percent of projected parity for March 31, 1973. It would give our dairymen the assurance they need to keep up present production. Without this assurance many dairymen will be forced to sell their cows and convert to straight livestock production which has a brighter future. Such a development would have grave consequences. It would cause a production decline and ultimately increase the consumer price of milk.

Admittedly, the increase proposed in this legislation might raise consumer milk prices 1 cent per quart or 4 to 5 cents per gallon. But without such an increase now, when it can do some good, within a year the consumer could face price increases of 6 cents per quart, 25 cents a gallon, because of insufficient production for the markets demands.

Mr. President, milk is one of the most valuable foods. It is most important to our growing children and to the balanced nutrition of the Nation. I urge Senators to help provide adequate milk supplies at reasonable prices by supporting this legislation.

THE FOUR CHAPLAINS

Mr. HUGHES. Mr. President, 30 years ago Saturday, February 3, during World War II, a troopship headed for Europe was struck by a torpedo from a German submarine.

Aboard this ship were four chaplains—a rabbi, a Roman Catholic priest, and two Protestant ministers of the Dutch Reformed and Methodist churches.

One of the greatest stories of sacrifice and heroism in American history was written when each of these four chaplains laid down his own life so that others might survive. Greater love hath no man than these four men of God showed in this tragedy at sea.

Dr. L. P. Fitzpatrick, national chaplain of the American Legion, a native of Coin, Iowa, has written a moving account of the four chaplains' heroism in the January 1973, issue of the Advance. In commemoration of these great pastors, I ask unanimous consent that this article be reprinted in the RECORD.

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

HONOR HEROISM OF FOUR CHAPLAINS

(By Dr. L. P. Fitzpatrick)

In compiling a list of the heroes of a nation, one would seldom think to include the name of a minister, priest, or rabbi, yet World War II produced four whose names demand a place on any such roster.

The oldest of these four heroic chaplains—George Fox—was an ordained minister in the Methodist Church. He was married and a father.

Father John Washington had left his Roman Catholic parish to serve his nation at the outbreak of hostilities.

Clark V. Poling was a minister in the Dutch Reformed Church and the son of a famous clergyman.

Alexander D. Goode was a rabbi who also had answered the call to military service early in World War II.

DIFFERENCES ACCENTED SIMILARITIES

Four men of God. Each represented a different branch of the church. Each came from a different section of the United States. Fate brought these men together after destiny had searched them out.

They were headed for the European theater aboard the USS *Dorchester*, a converted civilian ship, carrying American troops on that fateful night of Feb. 3, 1943, when a torpedo from a German submarine struck the vessel, raining death and destruction.

At that moment, many soldiers and sailors faced death if they could not locate life jackets. With the ship sinking, a man's life depended on having a jacket!

CHAPLAINS AID STRICKEN

On deck to do what they could to help, the four chaplains assisted the injured into life boats and found jackets for those who were without them. When all the jackets were gone, a sailor (or was it a soldier?) told one of the four that he had lost his life jacket. Without hesitation, the chaplain took off his own jacket and put it on the lad. There wasn't a moment's pause as the other three chaplains doffed their jackets and gave them to others in need.

Somewhere it is written: "Greater love has no man than this—that he give up his life for his brother."

Four chaplains—four men—of varying faiths, yet one faith in one God. Survivors reported that the last glimpse they had of these four heroes showed them with arms linked together, heads bowed in prayer to their common Father.

MEMORIALS HONOR FOUR CHAPLAINS

Today, 30 years later, a grateful nation has established many memorials to the heroism of the four. A commemorative postage stamp was issued. The United States government awarded the Distinguished Service Cross posthumously to each. A memorial window was installed in the Post Chapel at the U. S. Military Academy, West Point. An impressive memorial, the "Dove of Peace," was dedicated at Falls Church, Va.

The most active tribute was founded by Dr. Daniel A. Poling, father of one of the four. Choosing a site in the City of Brotherly Love—Philadelphia—Dr. Poling, with the help and donations of many others, established the Chapel of the Four Chaplains. With its theme of "Unity Without Uniformity," the chapel expresses the basic principle that mankind can live together, love together, worship together, not in spite of their differences, but because of them!

Chaplain-in-Charge of this memorial chapel is Dr. Walter H. White, who also served as an armed service chaplain during World War II. The chapel features altars for worship by those of the three faiths served by the four heroic chaplains. Legionnaires are cordially invited to visit the shrine, located at 1505 Race Street, Philadelphia.

SPECIAL EVENTS IN 1973

With 1973 marking the 30th anniversary of the event that led to the founding of the chapel, it will be the scene of many special events, as it is every year. American Legion Posts, Districts, and Departments are urged to set special observances of this 30th anniversary of the sinking of the USS *Dorchester* and commemorate these four men of peace who gave their lives in time of war that others might live.

Let us at this time thank God for Catholics like Washington; Protestants like Poling and Fox; and Jews like Goode. What would our nation be without them?

REHABILITATION ACT OF 1973

Mr. WILLIAMS. Mr. President, it is fitting that the Committee on Labor and Public Welfare opens its legislative business of the 93d Congress with a hearing before the Subcommittee on the Handicapped on S. 7. S. 7 is an identical bill to H.R. 8395, tht Rehabilitation Act of 1972, a bill which had been developed in the last Congress to supersede the Vocational Rehabilitation Act. After tireless efforts on the part of the Senator from California (Mr. CRANSTON), who presided at the hearings and floor-managed the bill, the distinguished chairman of the Subcommittee on the Handicapped (Mr. RANDOLPH), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), and the Senator from New York (Mr. JAVITS), and the distinguished members of the House Committee on Education and Labor, H.R. 8395, was reported from conference and passed with no dissenting votes in either House. Yet on October 27, 1972, President Nixon pocket vetoed this bill—an unprecedented act of callousness which had never before occurred in the history of Federal efforts to aid the handicapped.

H.R. 8395 had overwhelming support from constituency groups and from the Congress; it had been wrought in truly bipartisan fashion, and encompassed the sincere intent on the part of both House and Senate Committees and the entire Congress that handicapped individuals be provided with comprehensive and individualized rehabilitation services which enable them to better compete and live in our highly technical society. I believe we can say that H.R. 8395 had been given an examination of a magnitude never before devoted to rehabilitation legislation. The subcommittee and its staff spent long hours in consultation with groups interested and concerned about delivery of rehabilitation services at all levels and had left no stone unturned, and no need unmet.

The changes which resulted from this process promise to alter rehabilitation services in this Nation for many years to come. The more significant of these provisions may be summarized as follows:

BASIC PROGRAM

Title I of the bill places a clear priority on services to the severely handicapped, and provides procedural protections that insure no individual is denied services unless a vocational goal is not possible

for him. These procedural protections include the requirement for an individualized written program to be drawn for every eligible individual.

It assures that such program will be reviewed annually and evaluated as to the success the agency has had in meeting the goals and objectives set down in the program. Other changes in basic program services include the provision of telecommunication, sensory and other technological aids and devices which would enable an individual to become employable.

NONVOCATIONAL SERVICES

Title II of the bill creates a new program, the intent of which is to provide services to enable those individuals unable to have a vocational goal at the present time to become more independent and self-reliant. The program would ensure that the determination of a nonvocational goal would not exclude an individual entirely from services which would permit him to become more independent. This would allow for the possibility that the condition may change and, with the provision of independent living services, an individual may thereafter have a vocational goal.

STATUTORY REHABILITATION SERVICES ADMINISTRATION

The bill establishes the Rehabilitation Services Administration as a statutory agency and creates within this agency a Division of Research, Training, and Evaluation and a Center for Technology Assessment and Application. This provision intends to ensure that RSA be the primary agency responsible for the administration and policymaking for rehabilitation services. It also places clear authority for all research and training within RSA. Hearings on this legislation demonstrated a lack of coordinated efforts for research specifically related to rehabilitation. Thus, there is a clear need for policymaking in this area which puts primary emphasis on the rehabilitation needs of handicapped individuals rather than subordinating such decisions to social services decisionmaking.

RESEARCH AND TRAINING

The bill, in coordination with the creation of a Division of Research Training and Evaluation, expands authority for research and training. It places particular emphasis on the need for technological research which would enable handicapped individuals to work more easily with their handicaps.

EVALUATION

The bill responds also to the need for evaluation of program and research efforts to ensure that these initiatives are meeting their intended and specified goals. Hearings demonstrated substantial need to evaluate the use of funding under the basic program and related research and training efforts in order to determine whether funds so invested were accomplishing the purposes for which they were intended.

OTHER PROVISIONS

During hearings on H.R. 8395, it became patently obvious that revision of the existing Federal-State programs for rehabilitation of handicapped individuals would not solve all of the problems for handicapped individuals particularly in terms of employment, ease of accessibility of services, and making full use of Federal programs which are available. Several additional provisions within H.R. 8395, and retained in S. 7, dealt directly with these problems. The bill provided for the creation of a Federal Interagency Committee on Employment of Handicapped Individuals made up of the Secretaries of appropriate Federal Departments, which would call for and oversee the establishment of affirmative action policies in the hiring, placement, and advancement of handicapped individuals in Federal employment.

The bill also established an Architectural Barriers and Compliance Board to undertake compliance with existing Federal laws—including Public Law 90-480, The Architectural Barriers Act of 1968—which seek to eliminate barriers in buildings supported by the Federal Government.

In addition, the bill provides that contractors with the Federal Government must take affirmative action to employ handicapped individuals, and prohibits discrimination against handicapped individuals in any program or activity receiving Federal assistance.

Finally, the bill created an Office for the Handicapped in the Department of Health, Education and Welfare, a proposal which I introduced, to coordinate Federal programs for the handicapped and the preparation of a 5-year planning document for the provision of comprehensive services for handicapped individuals.

There is no question that H.R. 8395 is the most comprehensive rehabilitation legislation ever passed by the Congress. The particular emphasis on delivery of services to the severely handicapped, the expansion of programs in areas to fill needs not now being served, the creation of a program to allow the States to extend their delivery of services to individuals who are without immediate vocational goals, and the strong emphasis on research in rehabilitation technology and engineering are forward-looking initiatives. They are programs which do not simply bridge gaps but provide a coordinated and concerted effort to forestall and ameliorate handicapping conditions. They anticipate the day when all handicapped individuals may live and contribute easily and freely in this Nation.

While the Congress expressed its intent that this day come as soon as possible, the memorandum of disapproval by the President put an immediate stop to all such progress. He was unequivocal in his assertion that it would not come as a priority of his administration.

Calling H.R. 8395 another example of Congressional fiscal irresponsibility, President Nixon stated that it was his belief that this measure would seriously jeopardize the goals of the vocational rehabilitation program and would divert this program from its basic vocational objectives into activities that have no vocational element whatsoever or are essentially medical in character. I must take issue with all of these points.

It is no secret that the administration and the Congress differ substantially on priorities for Government spending. But what the President calls fiscal irresponsibility in the vocational rehabilitation program, would be called prudent expenditure after careful examination and planning in an area where he favors program expansion. The authorizations contained in H.R. 8395 are not large expansions of authority for the Vocational Rehabilitation program. In most areas they are combined authorizations for what were previously separate programs and represent only modest increases in other areas. While it is true that some of these provisions exceeded his budget requests, it is apparent to me that the Constitution gives the Congress the "power of the purse," and that responsibility for determination of level of expenditure must and will continue to rest with the Congress.

As to diversion of the program from its vocational objective into activities that have no vocational element whatsoever, I presume that the President refers to title II, Comprehensive Rehabilitation Services. To begin with, this program is separate from the Vocational Rehabilitation program and has a separate authorization. But most important, unless we are willing to accept that many individuals' conditions are hopelessly static and that no progress can be made toward a vocational goal, the President's statement implies an inflexibility which is both heartless and unacceptable. There is no question that many individuals at the outset do not appear to have vocational goals. Yet, after the provision of independent living services and training, these individuals may be brought to a point where they can be readily accepted in the basic vocational rehabilitation program. I, for one, am not willing to make a final judgment spelling no hope for any human being at any time. Nor am I willing to infer, as the President does, that individuals without an immediate vocational goal are not deserving American citizens. In my view such an attitude violates his own objective of reducing dependency and it condemns too many individuals to helplessness and hopelessness.

The provisions which the President insists are essentially medical in character are the end-stage renal disease programs and the program for services to the spinal cord injured. To treat these two programs as entirely medical violates the intent of the Congress in setting up these programs, and suggests that no other services are needed by individuals with spinal cord injury or end-stage renal disease.

The truth is that these individuals are in need of retraining and rehabilitation in the vocational sense of the word, and often need the wide scope of comprehensive rehabilitation services. Second, these programs were included in H.R. 8395, to fill a need which can be met presently in no other way. I need only to cite the number of letters that I and all of my colleagues receive from kidney patients who because of their disease have become totally dependent and disabled for lack of financial support and difficulties in finding suitable employment. I believe that the programs will more than pay for

themselves in the long run, and provide services which are desperately needed.

Referring to the statutory creation of the Rehabilitation Services Administration, the President stated in his memorandum that this bill would also create organizational rigidities which would undermine the ability of the Secretary of Health, Education, and Welfare to manage the program effectively. I see no such effect. In fact, the clear lines of authority will encourage more effective management of this program for the purposes for which it was intended by the Congress, and will insure that the program is not diverted from its primary purpose which is the provision of rehabilitation services, and the concomitant research and development needed to keep the program vibrant.

Finally, the President indicated that the bill would establish numerous committees and independent commissions which are unnecessary, would waste the taxpayers' dollars, and would complicate and confuse the direction of this program. I presume here that the President refers to the Architectural Barriers Compliance Board, the Federal Interagency Committee for Employment and the Office for the Handicapped. We must ask however: Which taxpayers? What dollars? and the direction of what program? Certainly, these committees have no direct relationship to the Rehabilitation program for the purposes of delivery of vocational rehabilitation services to hadicapped individuals and it is therefore difficult to understand how it will confuse the direction of the program. Second, I believe that it is time that we asked what the taxpayers' money is going for. The expenditure of money on programs which do not eliminate architectural barriers, and which do not provide substantial accomplishments in employment for handicapped individuals cannot be well spent. Nor can the expenditure of money in more than 50 programs for the handicapped which duplicate services, and organizational authority and leave large gaps in other areas be considered a wise expenditure of money. For those millions of handicapped individuals who pay taxes and have the right to expect that their tax money will go toward making their environment more accessible and their lives and employment easier, the creation of a Compliance Board and an affirmative action program provides appeals procedures and avenues of restitution which are greatly needed. For those other handicapped individuals who are well trained, or who have hopes of becoming trained so that their present dependence on tax revenues may be lessened, such proposals offer the possibility for action and effective utilization of their talents.

The delay which has resulted from the pocket veto of this bill has had a tragic effect on rehabilitation programs across the country. The simultaneous refusal to release money appropriated in the supplemental appropriations bill has slowed down many State programs, and caused many rehabilitation facilities, workshops and other programs to release clients because they are without funds for continued operations. This disruption will put off for some time the accomplishments which may have brought many individuals into competitive work situations. Many others may have been dropped and lost permanently from the rehabilitation program because of their lack of understanding of the reason for cessation of service. It has also delayed the delivery on a promise to individuals for whom this bill has meant another opportunity to make it and to become less dependent on their families and loved ones.

The subcommittee is meeting here today to reaffirm our support and the support of many others who worked on the Rehabilitation Act of 1972. Since the veto we have heard from many organizations and individuals decrying the veto and offering their strong support in any way necessary to repass this bill. I ask, Mr. Chairman, that these letters be included in the hearing record on this legislation.

As a member of this subcommittee and chairman of the full committee, I wish to thank all of the groups here represented for their assistance, and pledge my commitment to the speedy final passage and implementation of this important legislation.

WHEN "UP" IS A DOWN

Mr. DOLE. Mr. President, many times previous to this I have brought attention to the existing barriers people having a disability constantly face. The barriers I refer to are often as small as a 1-inch step or as large as a flight of stairs, and disabled people are not an exclusive group having to deal with many of these barriers. Measures have been taken to alleviate certain architectural barriers in various places across the country, and yet much remains to be done.

An article entitled "When 'Up' Is A Down," written by Judith Martin, was published in the Washington Post, of October 29, 1972. The article clearly describes barriers a great number of people face daily. I ask unanimous consent this article be printed in the RECORD.

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

WHEN "UP" IS A DOWN

(By Judith Martin)

Step right up.

Up the curb, up the marble public steps, up the lobby stairs to the elevator. Down it all again and over to the stores. Up the parking lot rim, up the entrance stairs, up and onto the escalator. Down that again, and home. Up the garage steps, up the house stoop, or up the apartment house lobby steps.

People climb up and down all day every day, and nobody thinks anything of it.

Unless, of course, they are:

Elderly.
Pregnant.
Heart patients.
Vertigo sufferers.
Pushing baby carriages.
Pulling grocery carts.
Learning to walk.
Using walkers, braces, crutches or wheelchairs.

"Nobody really has to worry about curbs or steps if they're not going to be sick or grow old," said Bob Jacoby, who's an attorney in the office of the general counsel at the Department of Health, Education, and Welfare. He has to worry about them—he's in a wheelchair.

One evening, he attended a sensitivity session at the Guest Center for Human Growth in Bethesda. "I saw the steps, and it was like I'd seen a sign that said 'Sorry about your handicap—we don't want you.' I asked the people there about it. 'We never thought of that,' they said. 'It never crossed our minds.'"

It doesn't seem to cross many people's minds, or to stick in the minds of those who build the streets, plan the subway or construct even federal buildings, which are required by law to be accessible to handicapped people.

Groups of handicapped people have lobbied all over the country for the removal of architectural barriers, including disabled people in Washington who held a six-mile march and Capitol rally last May demanding "civil rights for the handicapped."

In Minneapolis, Minn., there has been some success with the installation of 600 curb ramps and the conversion of those in the rest of the city planned—over a 20 year period. Minneapolis engineers estimate the cost at $21 for each new curb and $68 to repair old ones.

In Olympia, Wash., last week, Gov. Daniel Jackson Evans (R) spent the day in a wheelchair "to dramatize the plight of the handicapped." After finding that "a six-inch curb looked about as impossible as a six-foot wall," he made the recommendation that handicapped people be "more militant" in demanding the removal of architectural barriers.

What is needed, argue the handicapped, are curb "cuts" at crosswalks, which are indentations similar to those made for driveways so cars can cross sidewalks easily; ramps of a manageable angle on exterior and interior steps; and elevators, rather than escalators, which are difficult for many people to get on and off.

All of those would help to make life easier for many people of various ages and conditions who find steps difficult. But for the crippled, they would mean a dramatic difference in getting around town.

In lieu of them, however, there is a network of information passed around those who need it.

Which shopping centers are more or less flat. Where the freight elevators are, in such formidable building-block arrangements as L'Enfant Plaza. Which apartment buildings are manageable because of trash entrances without steps.

"They build a flat entrance because they have to wheel the trash in and out. Think about it," said Dick Heddinger, who is with the Bureau of Labor Statistics. He also spends a lot of time trying to get the Metro to put small elevators in stations. He and his wife are both in wheelchairs.

The Heddingers consider themselves "very independent," but because of the curbs they must often take taxis for four-block rides, or stop at corners waiting for the right stranger to ask to lower a wheelchair onto the street. "You psych out the person who is going to be willing, and then you have to get them to listen to how to do it. If you get someone who says, 'Sure, I know,' you grab the wheels and hang on, because they don't know."

Bouncing over the curb may mean landing in a heap on the pavement. It has happened to Patricia Thoben when the ramp is blocked by an illegally parked car in front of the Department of Health, Education and Welfare, where she is with the Division of Developmental Disabilities.

Miss Thoben is often grandly carried about—by her students at George Washington University, where she couldn't otherwise reach her classroom, by her neighbors, when she wants to use the apartment house swim-

ming pool; and all through school, by her classmates, so she could attend regular schools.

"The only way I could go up and see Mr. Lincoln at the Lincoln Memorial was when a boyfriend carried me. It was very romantic."

Of course a lot of that has to do with her being delicate-looking and beautiful. "No girl has ever offered to pick me up—comma, damn it," said Jacoby.

But on closer examination, neither of them is crazy about the idea behind that—the idea that they need people to carry them around schools and homes and cities.

"The number of restaurants I have to be carried up—it immediately places me in a dependent position," said Jacoby. "I play it like it—'Oh, I feel like King Tut'—but that's a coverup for feeling like a poor cripple who has to be carried."

"Disability is a lonely business," said Miss Thoben, for all that people treat her "like a movie star" and rush to help her. "We're different enough already, we don't want to be made more different." She was talking about the isolation which architecture barriers enforce—schools for the handicapped made necessary because public schools have no elevators, suggestions that it would be easier to run "special buses" for the handicapped instead of making it possible for them to use the Metro.

"Separate but equal. It's still discrimination. Discrimination is a reaction to what people see—they see a deformed physique and they react. Maybe worse than to seeing a black skin, bcause they know they're not going to have to be afraid of turning black."

REPLY FROM MR. SCALI

Mr. ROBERT C. BYRD. Mr. President, Mr. John Scali, our Ambassador-designate to the United Nations, has replied to my telegram of January 16, which I inserted in the CONGRESSIONAL RECORD of that date, in which I urged renewed efforts on the part of the U.S. delegation to gain reaccreditation for two Nationalist Chinese newsmen. The official U.N. press credentials of these men were withdrawn when the Republic of China as expelled from the United Nations.

In his reply to my telegram, Mr. Scali says that he, too, is "unhappy" over the situation and has already begun looking into the matter. He promises to go deeply into the problem if and when his nomination is confirmed by the Senate.

I am encouraged by Mr. Scali's reply and by his obvious interest in the problem and concern for the rights of all newsmen to chronicle events at the United Nations. However, I continue to be discouraged by the unwillingness, or inability, of U.N. Secretary General Kurt Waldheim to act in a positive manner to solve this problem.

Mr. President, I ask unanimous consent that the letter from Mr. Scali be printed in the RECORD:

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

THE WHITE HOUSE,
Washington, D.C., January 22, 1973.

HON. ROBERT C. BYRD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: As a former newsman, I was, and continue to be, unhappy over the fact that reporters for the Central News Agency of the Republic of China were deprived of their United Nations press credentials December 7, 1971.

As a result of your wire, I have investigated to determine what could be done to remedy this. I have been advised that Ambassador Bush asked Secretary General Kurt Waldheim on January 11, 1972, to consider the decision. On February 10, Secretary General Waldheim informed Ambassador Bush he did not plan to reverse the decision, citing a legal opinion that the Secretary General cannot recognize an official government news agency of a government not a member of the United Nations. I plan to look into this matter further, if and when I am confirmed as Ambassador to the United Nations.

In the meantime, I am advised that the United Nations Correspondents Association could still accept individual correspondents from Taiwan if they represented private newspapers.

I will inform you of whatever success I have in looking into this matter.

Sincerely,

JOHN SCALI,
Ambassador to the United Nations, Designate.

POLICY QUESTIONS FOR HEARINGS ON S. 268

Mr. JACKSON. Mr. President, on February 6 and 7, the committee on Interior and Insular Affairs will hold hearings on S. 268, the Land Use Policy and Planning Assistance Act of 1973.

Over the past 3 years extensive hearings have been held in the Senate on national land use policy measures. Because an up-to-date and relatively complete hearing record already exists, the focus of the February 6 and 7 hearings should be on policy issues which may have not yet been adequately addressed. To insure this focus, the committee asks witnesses and parties submitting written statements to respond to a list of policy questions along with other areas of interest which they may care to address.

I ask unanimous consent to have printed in the RECORD at this point the list of policy questions on S. 268.

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

POLICY QUESTIONS FOR HEARINGS ON S. 268, THE LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1973

A. FLEXIBILITY AND SPECIFICITY IN FEDERAL REQUIREMENTS

1. Should Federal land use legislation provide flexibility for the States to formulate their own policies to incorporate in, and their own procedures to be followed in the development and implementation of, their land use programs?

2. Or should greater specificity be provided by incorporating in such legislation more rigid Federal requirements which the States must meet?

B. FEDERAL REQUIREMENTS ON POLICY

3. Should there be specific substantive land use policies to which the State land use programs must adhere?

4. Can such Federal policies be written so that they (i) would encourage the development of State land use policies which reflect the varied geographical, climatological, developmental, environmental, and demographic characteristics of the States and (ii) would not serve as lowest common denominator policies which could frustrate State initiatives to adopt innovative or stronger policies?

5. Can such Federal policies be written so as to encourage land use decisionmaking which provides a balance between competing values and requirements and which favors no particular mission—be it economic, social or environmental?

C. FEDERAL REQUIREMENTS ON PROCEDURE

6. Should the States be encouraged to devise their own procedures to develop and implement the State land use programs subject only to a number of due process requirements and the requirement that implementation be accomplished?

7. Should more specific requirements concerning such procedures be prescribed?

8. Can such requirements be written so as not to, in effect, mandate a single method of development and implementation of State land use programs and which would allow the States to build upon procedures developed under recent State land use legislation?

9. In what particular procedural areas are additional requirements favored?

Public participation?

Role of local government?

Coordination of State and local functional planning?

Intergovernmental communication?

10. If specific policies or procedural requirements are favored, please submit examples of such policies or requirements.

D. FUNDING

11. What is the proper level of funding for the grant-in-aid program?

12. What should be the proper percentage of costs of developing and implementing the State land use programs to be covered by Federal grant-in-aid funds?

E. SANCTIONS

13. Should Federal land use legislation contain a sanction for the failure of a State to meet the legislation's requirements?

14. If a sanction is favored, please outline the provisions of a recommended sanction.

F. DEFINITIONS

15. Are the general categories of critical areas and uses which are to be incorporated in the State land use programs correctly identified?

16. Is further definition of the specific areas or uses to be included in each general category required?

17. If so, please provide the definitions you favor, keeping in mind the need to have the definitions meaningful for all States—large or small, heavily populated or rural.

G. INTERSTATE LAND USE DECISIONMAKING

18. Should either existing or new institutions be created and new procedures be established in the legislation for land use decisionmaking on matters that are interstate in character?

19. If existing institutions are preferred, please identify. If new institutions are to be established, please describe how their regional boundaries would be determined. Please also describe the powers which should be given and the procedures which should be prescribed for interstate land use decisionmaking.

H. TAX POLICY

20. Should Federal land use policy legislation seek to influence the land use planning and management decisions of private parties and State and local government through changes in Federal, State and local tax policy?

21. What adverse influences do present tax laws have on patterns of land use and what changes are necessary in the tax laws to beneficially influence those patterns?

22. What experience has been gained at the State and local level in efforts to guide or influence land use developments through tax policy (e.g., tax relief for maintaining property in agricultural or forest status)?

THE END OF THE WAR IN VIETNAM

Mr. ROBERT C. BYRD. Mr. President, while I share the heartfelt relief and

thankfulness that our country feels now that our involvement in Vietnam is militarily over, I believe that we should leaven the euphoria with some good American caution and pragmatism.

President Nixon and Mr. Kissinger deserve our admiration and gratitude for their success in achieving a cease-fire in South Vietnam, and for hammering out the agreement that was signed in Paris. This has been a long and arduous task. But we would be doing ourselves a disservice were we to conclude at this time that American involvement in Indochina is over. While the shooting has stopped and Americans are no longer being killed in combat, the ramifications of the recent struggle are wide. The political aspects of the settlement may well pose problems as difficult, if not more so, than did the problems that were purely military.

I commend to Senators a searching article written by Arthur Schlesinger, Jr., and published in today's Wall Street Journal. 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:

ARE WE REALLY OUT OF VIETNAM?

(By Arthur Schlesinger, Jr.)

Is it really over at last, this longest, most unpopular, most useless, most mysterious war in the history of the republic? Combined hope and weariness incline us to accept the Paris Accord at face value and suppose that we will never have to worry about Vietnam again. But it is rash to take anything on faith in international affairs. Repellent as the idea may be of thinking about Vietnam any more, it may be worth a moment to take a hard look at the Paris documents.

The principle on which agreement was based—the principle that Henry Kissinger had pressed and Hanoi had resisted so long—was that a military cease-fire must precede a resolution of the political issues. In finally accepting this last October, Hanoi, as Washington has repeatedly told us, made a notable concession. Another Hanoi concession was to drop the demand for the immediate dethronement of General Thieu. However, Washington made its concessions too; and, since it has talked a good deal less about these, it may be well to list some of them here:

1. We have agreed to withdraw all our troops and dismantle all our military bases in South Vietnam within 60 days, while 145,000 North Vietnamese troops (our count; 300,000 according to General Thieu) may remain in South Vietnam so long as the Vietcong want them there. (The agreement provides that this question "shall be settled by the two South Vietnamese parties in a spirit of . . . equality.") "What kind of peace," General Thieu asks not unreasonably, "is a peace that gives the North Vietnamese the right to keep their troops here? What kind of a treaty is a treaty that legalizes their presence here de facto?" Mr. Kissinger said the other day that these North Vietnamese regulars would somehow fade away in time through "the normal attrition of personnel." The prospect of waiting around while they die of old age may not be totally consoling to General Thieu.

2. We have agreed to supply no further arms to South Vietnam except on a one-for-one replacement basis, while Russia and China can continue to send arms to North Vietnam without any limit as to type or quantity.

3. We have obliged the Saigon regime to accept as full and equal partners on a National Council of National Reconciliation and Concord both the neutralists, whom the regime had been sending into prison or exile, and the Communists, whom it had outlawed. And we have confided to this National Council, on which each partner has a veto, the authority to organize elections. Thus we have not only legalized the presence of North Vietnamese troops in South Vietnam; we have also legalized the Vietcong as an equal partner in determining the future of South Vietnam.

4. We have promised to pay reparations to North Vietnam in the form of reconstruction assistance and in the magnitude of $2.5 billion.

5. We have thrown overboard the whole theory on which our intervention was based and for which 50,000 Americans died—the theory that North and South Vietnam were separate states, one of which had wantonly invaded the other. Mr. Kissinger now casually refers to the conflict as "the civil war." The agreement pledges us to "respect" the "unity and territorial integrity of Vietnam" and endorses reunification as a laudable objective.

A GREAT SOCIALIST VICTORY

Such concessions may have been indispensable to a settlement. Some of them may even have been desirable in themselves. But there is no point in pretending that they were not made. When one considers how much was conceded, it is easy to see why Le Duc Tho, the North Vietnamese negotiator, should call the agreement "a very great victory for the Socialist countries" and why General Thieu should be filled with such alarm and foreboding.

The point of the concessions was to persuade Hanoi to accept the Kissinger principle of a cease-fire in advance of a political settlement. Not everyone experienced in these matters on the American side thought the Kissinger approach a good idea. For the essence of this approach is to leave the substantive political issues, i.e., the causes of the war, unresolved. Those, like Averell Harriman and Clark Clifford, who thought a political settlement should come first, did so in the belief that the contending parties were so diametrically opposed, their differences so bitter and irreconcilable, that unless these differences were settled in advance, any cease-fire would be certain to break down after a short time.

To this view, the Kissinger reply has been that a cease-fire will set in motion a political evolution that will end by resolving the political differences. We must pray that Mr. Kissinger is right, and we will now see how much merit his argument has. We will see whether General Thieu and the Vietcong, after all the years of hatred, betrayal and killing, are going to get together; whether supervisory personnel can maintain the cease-fire over the crazy-quilt of ill-defined jurisdictions; whether the National Council, required to operate on a basis of unanimity, will be able to agree on a procedure for elections.

Of course in its Article 11 the Paris Accord says incredibly: "Immediately after the cease-fire, the two South Vietnamese parties will: Achieve national reconcilation and concord, end hatred and enmity, prohibit all acts of reprisal and discrimination against individuals or organizations that have collaborated with one side or the other." Only a grammarian can comment adequately on the curious use of "will" in this context. When the agreement adds that Saigon and the Vietcong "will" also "ensure the democratic liberties of the people: personal freedom, freedom of speech, freedom of the press" and so on, up to and including the "right to free enterprise," one can only wonder with what amused tolerance of Western eccentricity the representatives of the Saigon, Hanoi and Vietcong regimes, none of which has shown notable enthusiasm for democratic liberties, watched this attempt to import the concepts of Western individualism into their non-individualistic cultures and with what cynicism they affixed their signatures to the document.

MR. ARNETT'S VIEW

No one has followed the Indochina situation longer or more carefully than Peter Arnett of the Associated Press; and he is almost certainly right when he predicts that a "dirty war" will be followed by a "dirty peace." Neither side has the slightest faith in the desire of the other to compromise the political issues. On December 30 General Thieu told Oriana Fallaci that bloodshed would be "inevitable" with a cease-fire. "It is not that we are overly suspicious," he said after the agreement was announced. "It is because we have had plenty of experience with the Communists in this regard and we don't place too much trust in their signature." The Vietcong, we may be sure, are equally suspicious. As Le Duc Tho said in Paris, "According to Marxist-Leninist theories, so long as imperialism persists in the world there will still be wars." Each side is undoubtedly right about the other.

General Thieu has already said he will not agree to elections until the North Vietnamese troops leave South Vietnam. If elections are not held, this will very likely lead the Vietcong, still denied a political role, to become guerrillas again. If the cease-fire gradually disintegrates, what will the United States do? When President Nixon announced the settlement to the country on January 23, he said that all parties must "see to it" that the peace lasts and that "interested nations" must "help ensure that the agreement is carried out." What do these veiled phrases mean? Does or does not the President have in mind a continuing role for the United States as a guarantor of the agreement?

There is a short-run argument for ambiguity on this point. That argument is that, if the United States were to tell the world we were out of Indochina forever, this would tempt Hanoi to violate the agreement. But advocates of this tactic should never forget Theodore Roosevelt's warning: never draw unless you mean to shoot. What really do we intend to do if things go sour? The New York Times had a story from Saigon saying that General Thieu has received "official" assurances from Washington pledging American re-intervention in case of "blatant" Communist violations of the cease-fire. Have in fact such pledges been made? Does Congress know about them? Will we react in the same way in case the blatant violations are made by the Saigon regime?

MR. NIXON'S OPTIONS

As long as the Seventh Fleet remains in Indochinese waters, the bombers on our carriers can readily strike again. Exhilarated by what he no doubt regards as the success of the December B–52 raids, President Nixon may feel that he can control Hanoi from the air. Or perhaps he thinks that Moscow and Peking can control Hanoi for him, though he would be mistaken if he supposes that their influence over Hanoi is any greater than ours over Saigon. He has, of course, another lever on the situation in reconstruction assistance. If agreements were violated, for example, aid could be cut off to the violator. This could not be done effectively, however, unless aid were distributed by an international organization; for President Nixon, by calling the Thieu regime "the sole legitimate government of South Vietnam," has already recommitted America to one side in the conflict.

This is the ultimate danger in the formula of a cease-fire in advance of a political settlement—that, as the cease-fire breaks down under the pressure of those deeply-felt and still unresolved political issues, the United States, as a party to the settlement, may be drawn back into the quagmire.

No doubt the administration rejected the other road to a negotiated agreement—a political settlement first—on the ground that

no such settlement was possible without abandoning General Thieu, which would be, by the President's definition, dishonorable. Yet, if we were unwilling to do that (and how General Thieu acquired such a hammerlock on the American official conscience is another mystery), then perhaps historians may conclude that, rather than tie the United States into an inherently unstable and almost certainly unworkable agreement, we would have done better to follow the course recommended by such disparate figures as General Maxwell Taylor and Senator George McGovern—the course, in General Taylor's words, "of terminating the American commitment without recourse to a formal agreement involving Hanoi and the Vietcong."

Unilateral withdrawal, for example, would not have legalized North Vietnamese troops in South Vietnam. It would not have conferred new juridical status on the Vietcong. Above all, it would not have entangled the United States—as today we stand murkily entangled—in the position of seeming to guarantee the unguaranteeable. In the end, we will probably be forced to abandon General Thieu after all; or else reenter the war in the effort to save him.

THE SEC AS PRICE-FIXER

Mr. WILLIAMS. Mr. President, I have previously expressed in the RECORD my disappointment with the manner of which the SEC has chosen to deal with the vexing question of whether and upon what terms institutional investors may join our Nation's securities exchanges. The "problem" of institutional membership is in reality primarily a symptom of unreasonable fixed minimum commission charges. The SEC's so-called 80–20 rule reinforces the anticompetitive commission rate structure, rather than providing an incentive for its elimination.

The SEC's 80–20 rule appears designed to deal with the symptoms of institutional membership while possibly aggravating the underlying cause. The SEC's approach has the effect not only of shoring up fixed rates, which the SEC itself is committed to eliminating at least on institutional-sized transactions, but also intensifying the conflicts of interest and competitive unfairness presented by the combination of money management and brokerage functions.

Senators BENNETT, TOWER, and I have taken an entirely different approach to the "problem" of institutional membership. Our bill (S. 470) is intended to encourage the exchanges to reduce the breakpoint for competition on security commission business and to separate entirely the functions of broker and money manager with respect to institutional accounts.

In an editorial a week ago Tuesday, the New York Times succinctly exposed the deficiencies in the SEC approach by noting that it "would almost certainly exacerbate the two most serious problems facing the stock markets." These two problems are, of course, fixed commissions and the conflicts of interest inherent in the combination of the brokerage and money management functions.

Because this editorial pinpoints so accurately the deficiencies in the SEC's approach, and presents so clearly some of the reasoning underlying the legislation Senators BENNETT and TOWER and I have introduced, I ask unanimous consent that it be printed in the RECORD.

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

SEC AS PRICE-FIXER

The Securities and Exchange Commission has sought to dispose of the hot issue of institutional membership on stock exchanges by an artful compromise.

The current rules of the New York Stock Exchange deny membership to broker-dealer affiliates of mutual funds and other large institutional investors, but a number of regional exchanges accept such units. Now the S.E.C. would require all stock exchanges to admit broker-dealer affiliates of big institutions, provided that they do at least 80 per cent of their securities business with the public.

James J. Needham, chairman of the New York Stock Exchange, has hastened to embrace the new S.E.C. rule "as a major step in the public interest toward the creation of a central securities market." Put more bluntly, the rule would protect the monopoly privileges of Stock Exchange members. Mr. Needham would further strengthen the exchange's monopoly by eliminating the "third market"—the over-the-counter market for stocks listed on the exchange.

The effort to establish the 80–20 boundary has involved the S.E.C. in highly arbitrary definitions of just who is "the public" and who is "an affiliated person." Like Humpty Dumpty, the S.E.C. says that both are whoever it says they are. For instance, the S.E.C. rule would apparently require special dispensation from the exchanges to permit such public institutions as the City of New York to join. Robert I. Berdon, treasurer of Connecticut, which is presently a member of the PBW Stock Exchange, has rightly urged the New York Stock Exchange, "if it is in fact concerned with the public, to show its concern by voluntarily eliminating those rules which require brokers to charge fixed commissions which bear no relationship to the true value of the services performed."

Indeed, the new S.E.C. rule would almost certainly exacerbate the two most serious problems facing the stock markets. One is the issue of fixed commissions, which give members of the stock exchanges monopoly pricing powers that discriminate against nonmembers. As Senator Williams of New Jersey has observed, the 80–20 rule "reinforces the present anti-competitive commission rate structure."

The other big problem worsened by the S.E.C. rule is that of the conflict of interest between money-management and brokerage. The new rule gives large institutional money managers a strong incentive to become stockbrokers as well, either by setting up affiliates or by acquiring existing brokerage firms.

The S.E.C. ought to be moving in precisely the opposite direction. It should eliminate monopolistic price-fixing of commission rates and—since outside institutions could then no longer claim with justice that they were being discriminated against or charged noncompetitive fees out of line with the value of services performed—it would be fair to restrict their acting as brokers on funds they manage. At the same time, broker-dealers who remain members of stock exchanges should be required to give up managing their own mutual funds or outside pension funds.

In this way, both the price-fixing issue and conflict-of-interest issue would be resolved.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, recent Census Bureau figures showing reduced fertility levels in this Nation have, unfortunately, led to a widespread misunderstanding of the implications of this trend. Statements emanating from some quarters allege that with our record-breaking low fertility rates, we have somehow at last reached population stabilization.

Mr. President, nothing could be more misleading—or more detrimental to our efforts to increase awareness and understanding of what the "population problem" is all about.

Obviously, population growth is dependent on fertility, the number of children being born to women. But overall growth does not automatically fall simultaneously with the reduction of fertility. The key factor, and the factor often overlooked, is the built-in momentum of population growth. Reduced fertility is certainly a welcome trend, but it will not be interpreted into a stabilized population for another 70 years. To quote the Commission on Population Growth and the American Future:

The baby bust psychology may give rise to an unwarranted complacency born of the notion that all of the problems associated with population growth are somehow behind us. Our population growth has developed its own momentum which makes it very difficult to stop, no matter how hard the brakes are applied. Even if immigration from abroad ceased and couples had only two children on the average—just enough to replace themselves—our population would continue to grow for about 70 years.

The reason for this demographic fact of life is the large number of young people just moving into their childbearing years. Even if they have small families on the average, the population will continue to expand throughout their lifetimes.

Mr. President, in order to keep this fact in context and to insure full understanding of this important aspect of population growth, I ask unanimous consent to have printed at this point in the RECORD chapter 2 of the Population Commission's report, "Population and the American Future." I commend it to all Senators for their reading.

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

CHAPTER 2: POPULATION GROWTH

The tremendous growth in the world's population is a recent development in the history of mankind. In pre-industrial times, birthrates were high; but hunger, ignorance, and disease combined to stack the odds against an infant surviving to the age of parenthood. Societies required high birthrates simply to keep themselves going.

In modern times, the reductions in mortality have given the average person a longer, healthier life and have inaugurated a phase of rapid population growth. The world's population grew from one-half billion around 1650, to about 1½ billion by 1900, to 2½ billion in 1950, and had already surpassed 3½ billion by 1970. The world's total has doubled during the last 50 years.

From the beginning of the Christian era to 1650, mankind increased by an average of 150,000 persons a year. Today, the world total is increasing by about 78 million persons annually. If current rates of growth continue for another 50 years, the world's population will number some 10 billion.

The same civilization that achieved a lengthening of life in Europe and America also evolved an urban way of life in which the institutional supports to high fertility were gradually eroded, and developed a technology that reduced the role of ignorance and error in reproduction. The technology of mortality control was exported to the rest of the world. There was far less exporting of the underlying social and economic changes which gave rise to this technology, and only recently have efforts been made to export reproduction control.

Because of declining birthrates, the advanced nations have been narrowing the gap between birthrates and death rates in the 20th century. These nations have been approaching a stabilized population—one in which births and deaths have come into balance. The historical transition has been from a stabilized population maintained by high birthrates, high and erratic death rates, and short lifetimes, toward a stabilized population characterized by low birthrates, low death rates, and long lifetimes. When birthrates once again equal death rates, these nations will have completed the demographic transition.

Ultimately, this transition must be completed. Population growth at our current rate of about one percent per year would double the population every 70 years. Such growth leads to "standing room only" if continued indefinitely. By one means or another, such an impossible result will be avoided. An average of zero growth over the long term—a stabilized population—must and inevitably will be reestablished.[1] The question is when will it happen, and how. In this, we in the United States may exercise choice.

THE UNITED STATES

No country has completed the demographic transition, and the United States will probably not be the first to do so. A discussion of our prospects for completing it requires some appreciation of the dynamics of our population during the first 70 years of the 20th century.

Even a cursory examination of the data reveals that, since 1900, the United States has undergone something of a demographic revolution. In terms of total numbers, our population has increased from about 76 million in 1900 to almost 205 million in 1970. This represents an additional 129 million people that our society has been called upon to accommodate over the past 70 years. By mid-1972, our country will have about 209 million people.

The growth of population is sustained only as long as the yearly number of new entrants (births and immigrants) exceeds the number required to replace those who die or emigrate. Although the United States has always been a growing population, the rapid growth rates characterizing our early years began to taper off in the 19th century.

In the 20th century, we have seen substantial changes in all three components of population growth—fertility, morality, and migration. First, consider the birthrate. It is important to understand that this measure simply indicates the average level of yearly births in the population. Although it obscures a considerable amount of variation associated with such factors as age and socioeconomic status, it is nevertheless a useful measure of the contribution of births to population growth. The birthrate was about 32 births per 1,000 population in 1900, and declined fairly steadily to about 18 per 1,000 in the depths of the Depression. Just when the experts had become convinced—some even concerned—that our level of fertility would soon dip below the level required for replacement of the populaton, couples began increasing their rates of childbearing. This aberration in the history of American fertility, of which we will have more to say shortly came to be called the "baby boom." By 1947, the birthrate stood at 27 per 1,000, and it remained at around 25 per 1,000 for a decade before resuming its long-term decline. By the early 1960's, the boom had run its course, and our birthrate today is below pre-World War II levels.[2]

A second basic determinant of how fast a nation grows is the degree to which it succeeds in preserving and extending the lives of its people. We have seen dramatic progress toward reducing the threat of early death. The death rate has fallen from about 17 per 1,000 population at the turn of the century, to its present level of about nine per 1,000. The average life expectancy today is about 70 years,[3] or 23 years longer than in 1900. Most of these declines in mortality were achieved prior to 1960, and all segments of our population have gained some, though not equal, benefits in terms of increased longevity.

In the United States, mortality during the early years of life is already so low that any substantial further improvement in life expectancy will have to come primarily among persons over the age of 50. Since this segment of the population is generally beyond childbearing, the extension of their life span would not result in any significant increase in births. Consequently, further additions to the duration of life in this country would simply result in somewhat larger numbers of people at the older ages, where they still can be quite productive members of society.

The third factor associated with growth is, of course, immigration. Only the Indians, who numbered less than one million[4] when the first English colonists settled in Massachusetts and Virginia, can rightfully claim original status. Our population is comprised primarily of immigrants and their descendants. Since 1900 alone, 20 million more people have moved into this country than out of it. Approximately 40 percent of the population growth in the first decade of this century was attributable to immigration. During the 1930's, the number of immigrants was slightly lower than the number of people leaving the country. Immigration once again increased following World War II, and during the 1960's, it accounted for about 16 percent of our national growth.[5]

When all of these demographic credits and debits are tallied, we are left with either net population growth or net decline. The United States has had a long history of diminishing growth rates. Our annual rate of growth dropped from about 3.3 percent in the second decade of the 19th century to 2.1 percent by the first decade of this century, to an average of around 0.7 percent during the 1930's. It then rose to about 1.9 percent during the fifties, before falling to its present level of 1.1 percent. However, the size of our population is now so large that even our low current rate of growth translates into about 2¼ million people added to our society each year—more than enough to fill a city the size of Philadelphia.

We cannot predict how fast our population will grow in the years ahead, but we can be sure that, barring some unforeseen catastrophe, substantial additions to our numbers lie ahead. Our population has a potential for further growth greater than that of almost any other advanced country. The reasons for this are a pattern of early and nearly universal marriage and childbearing, fertility levels above those required to replace the parental generation, and a preponderance of youth in the population. The youngsters born during the baby boom are reaching adulthood today and beginning to do many of the things their parents and grandparents did before them—finishing school, seeking jobs, developing careers, getting married, and having children of their own.

Footnotes at end of article.

THE "BIRTH DEARTH"

In the summer of 1971, the news media spread a report that, because women were having fewer babies than had been expected, we were in the midst of a "baby bust." That story was based on data for the first six months of 1971, which showed a drop in birthrates at a time when most of the experts had expected them to rise again as the baby-boom generation reached adulthood. These expectations seemed to be realized when the birthrate, after reaching a new low of 17.5 in 1968, moved up to about 18.2 in 1970.[6] But, instead of continuing upward in 1971, the rate dropped back to about 17.3 and so was born the idea of the "birth dearth."

This phenomenon is notable because birthrates are showing declines at a time when everyone was expecting them to increase. It had long been assumed that birthrates would rise during the 1970's as potential parents who were born during the baby-boom years came of age. If general fertility (the rate of childbearing among women aged 15 to 44) remained constant, there would be an unavoidable "echo boom" in the birthrate of the total population, as larger and larger numbers of potential parents reached childbearing age. The increase in the number of people entering the childbearing ages is, however, presently being offset by a decline in the level of general fertility.

Two factors seem to account for this recent decline. One is temporary; the other may or may not be permanent. The first element arises from the fact that we are now in a period of gradually rising age at childbearing. This means that, in any given year, some fraction of the births is, in effect, postponed to a later year. The effect is temporary because the age at childbearing will not rise indefinitely; when it stabilizes, the postponement will stop and the birthrate will rise again.

The other and more important element is that today's young people expect to have far fewer children than people a few years their senior. On the average, women now in their late thirties already have more than three children. According to a 1971 Census Bureau survey, married women 18 to 24 say that they expect to have an average of 2.4 children before they complete their families.[7] Not everyone will marry, so the total for this generation could ultimately be lower. On the other hand, experience with similar surveys in the past indicates that women usually end up having more children than they estimated when they were young. The baby-bust phenomenon is significant and somewhat surprising, but it would be premature to say that we are on the verge of a fertility level that would ultimately stabilize the population.

The baby-bust psychology may give rise to unwarranted complacency born of the notion that all of the problems associated with population growth are somehow behind us. Our population growth has developed its own momentum which makes it very difficult to stop, no matter how hard the brakes are applied. Even if immigration from abroad ceased and couples had only two children on the average—just enough to replace themselves—our population would continue to grow for about 70 years. Our past rapid growth has given us so many young couples that, to bring population growth to an immediate halt, the birthrate would have to drop by almost 50 percent, and today's young generation of parents would have to limit themselves to an average of about one child.[8] That is just not going to happen.

THE BOOM GENERATION

The postwar baby boom is over, but those born during the boom period are still very much with us. Our society has not had an easy time thus far in its attempts to accommodate the baby-boom generation, and their impact is not likely to diminish in the near

future. Over the past couple of decades, most of the problems have been associated with providing for their schooling. Shortages of classrooms and teachers began to plague our elementary schools in the mid-1950's.

Similar difficulties have become commonplace in our secondary schools and colleges as the bulk of the boom generation advances to higher levels of education. At the same time, primary schools are now having to cope with smaller enrollments. The number of children entering first grade has stopped escalating, and is now declining. Furthermore, in contrast to the serious teacher shortage of the 1950's, we are now faced with more teachers than the system can readily absorb. The National Education Association recently observed that, during the remainder of this decade, there will be at least two qualified graduates seeking a teaching position for every available job.[9] Thus, the baby boom has left us with a legacy of problems attendant on both rapid increases and decreases in the flow of people passing through our educational system.

This new wave of humanity has made itself felt in areas outside the educational arena as well. Many current problems that we do not normally associate with population growth can be understood, in part, as an effect of the growing-up of the baby-boom generation. For instance, it is generally recognized that young drivers have higher accident rates than the rest of the population. Hence, recent increases in traffic accidents are partially attributable to the fact that many of those born in the baby boom became drivers during the 1960's.

An awareness of the same sort of population dynamics can also help us to understand the increasing volume of crime during the past decade. Since the crime rate is higher among persons under 25 than among older people, much of the increase in crime during recent years is traceable to an expansion in the relative number of persons in the youthful age groups. About 28 percent of the reported increase between 1960 and 1970 in the number of arrests for serious crimes can be attributed to an increase in the percentage of the population under 25. Another 22 percent of the increase can be explained by the growing size of the population and other demographic factors. Thus, population change alone accounted for about half of the reported increase in the number of arrests for serious crimes over the past decade.[10]

Now, as the youth culture of the sixties evolves into the young adult society of the seventies, the impact is being felt in the housing and job markets. In the two decades before 1965, about 48 million Americans reached the age of 20. Between 1965 and 1985, over 78 million will cross this important threshold.

As those born during the baby boom move off the campus or leave their parents' homes, we can expect a 33-percent jump in annual household formation by the end of this decade. Between 1950 and 1966, the number of households grew at a relatively steady rate of around 900,000 per year. After that, the rate began to climb, and last year we added well over one million households. Our research shows that the rate will increase to almost 1.5 million households added each year by the end of the seventies, and will remain at that level until about 1985. These figures understate future demand for the construction of new housing, since additional new housing units will be required to replace part of the older housing stock.

Along with increased housing demands will come greater demand for employment opportunities. The highest rates of joblessness are found among the young. Consequently, one factor to be considered, irrespective of the state of the economy itself, is the sheer increase in the numbers of young people seeking work. The Bureau of Labor Statistics tells us that we can expect about 3½ million persons to make their initial entry into the labor force each year during the 1970's. This level of prospective job seekers exceeds the annual average for the 1960's by about 700,000 persons a year. Here again, we can attribute the large numbers to a heavy influx of new jobseekers who were born during the baby boom.[11]

The boom generation will continue to exert a heavy impact on our society as they move up the age ladder. Eventually, they will reach retirement age; at that point, we can expect added pressure on retirement systems as the proportion of beneficiaries in the population increases. Today, we have an estimated 20 million senior citizens. About 50 years from now we will have an estimated 40 million, twice the present number.

In sum, it should be evident that, even if the recent unexpected drop in the birthrate should develop into a sustained trend, there is little cause for complacency. Whether we see it or not—whether we like it or not—we are in for a long period of growth, and we had best prepare for it.

IMPLICATIONS OF GROWTH

It is clear that we are confronted with a continuing legacy of population growth in this country. Much of it is unavoidable, but its full extent will depend upon choices made by American couples in the years immediately ahead.

If families in the United States have only two children on the average and immigration continues at current levels, our population would grow to 271 million by the end of the century. If, however, families should have an average of three children, the population would reach 322 million by the year 2000. One hundred years from now, the 2-child family would result in a population of about 350 million persons, whereas, the 3-child family would produce a total of nearly a billion. Thus, a difference of only one extra child per family would result in an additional 51 million people over the next three decades, and if extended over a century, an additional two-thirds of a billion people.

When we speak of 2- or 3-child families, we are talking about averages which can be made up by many possible combinations of family sizes, ranging from childless couples to those with many children.

The total size of our future population is not our sole concern. Perhaps just as important are the changes which lie ahead in the size of various age categories that play an important role in the demands placed on our society.

If families average three children, we can expect to find about 46 percent more young people of elementary and secondary school age (5 to 17 years), and 36 percent more persons of college age (18 to 21 years) in the year 2000, than would be the case if families average only two children. Thus, a difference of only one child per family will have important consequences for the magnitude of the load on our educational system.

The burden placed on those in the economically active segment of the population, traditionally considered to be those aged 18 to 64, will also be influenced by future family size. The dependency burden is determined chiefly by the proportion of the population in the childhood and adolescent years. Projections indicate that the number of persons in the dependent ages under 18 in the year 2000 would be 52 percent greater if families average three children than if the 2-child average prevails. The size of the population 65 and over in the year 2000 would be unaffected by changes in the average number of children, since everyone who will be over the age of 30 at the end of this century is already born. Consequently, the numbers in the dependent ages, relative to persons of working age, would be about one-third larger under the 3-child than under the 2-child projection.

U.S. POPULATION, 1970 AND 2000

[Numbers in millions]

	1970	2000	
		2-child average	3-child average
All ages	205	271	322
Under 5	17	20	34
5 to 17	53	55	80
18 to 21	15	17	24
Under 18	70	75	114
18 to 64	115	167	179
65 and over	20	29	29
Dependency ratio [1]	78	62	80

[1] Number of persons 65 and over plus persons under 18, per 100 persons aged 18 to 64.

These data are based on the Census Bureau's *Current Population Reports*, Series P-25, No. 470, "Projections of the Population of the United States by Age and Sex: 1970 to 2000." These projections served as the basis for much of the research reported in this volume. We examined how the population would grow between now and the year 2000 under the 2-child family projection (Census Series E) and under the 3-child projection (Census Series B).

Series B assumes that in the future, women will be giving birth at an "ultimate" rate averaging out to 3.1 children per woman over her lifetime. The transition from the 1969 rate of 2.4 to the "ultimate" future rate is not instantaneous in the projections, but most of the change is assumed to occur by 1980. The 3.1 figure is an average for all women, regardless of marital status. In the United States today, almost all women (95 percent) marry at some time in their lives, so the Series B rate of childbearing represents a reasonable approximation to an average family size of 3 children.

Series E assumes an ultimate rate of childbearing that works out to an average of 2.1 children per woman over a lifetime. This is the rate at which the parental generation would exactly replace itself. The extra 0.1 allows for mortality between birth and the average age of mothers at childbearing, and for the fact that boy babies slightly outnumber girl babies.

Different generations born in the 20th century have reproduced at widely varying average levels, some exceeding three children (as did the women born from 1930 to 1935) and some approaching two (as did women who were born from 1905 to 1910). The fact that major groups in our modern history have reproduced at each of these levels lends credibility to projections based on either of these averages.

It is assumed in both projections that future reductions in mortality will be slight. The net flow of immigrants into the United States is assumed, in the projections, to continue at the present level of about 400,000 persons annually.

FOOTNOTES

[1] Ansley J. Coale, "Alternative Paths to a Stationary Population" (prepared for the Commission, 1972).

[2] U.S. National Center for Health Statistics, *Vital Statistics of the United States*, Volume I, *Natality*, 1968.

[3] U.S. National Center for Health Statistics, *Vital Statistics of the United States*, Volume II, Section 5, *Life Tables*, 1968.

[4] James Mooney, "The Aboriginal Population of America North of Mexico," *Smithsonian Miscellaneous Collection*, 1928, Vol. 80, No. 7.

[5] Irene B. Taeuber, "Growth of the Population of the United States in the Twentieth Century" (prepared for the Commission, 1972).

[6] U.S. Bureau of the Census, *Current Population Reports*, Series P-23, No. 36, "Fertility Indicators: 1970," 1971.

[7] U.S. Bureau of the Census, *Current Population Reports*, Series P–20, No. 232, "Birth Expectations Data: June 1971," 1972.

[8] See note 1.

[9] National Education Association, *NEA Research Bulletin*, 1971, Vol. 49, No. 3.

[10] Estimates developed from Census Bureau data on the population by age, 1960 and 1970, and data on the volume of arrests for crime index offenses reported for 1960 and 1970 in U.S. Federal Bureau of Investigation, *Uniform Crime Reports—1970*, by direct standardization methods.

[11] Denis F. Johnston, "Illustrative Projections of the Labor Force of the United States to 2040" (prepared for the Commission, 1972).

Mr. PACKWOOD. Mr. President, with this background in mind, I wish to report that according to current Census Bureau approximations, the total population of the United States as of today, February 1, 1973, is 210,295,638. In spite of the widely publicized reductions in our fertility levels, this represents an increase of 1,581,379 since February 1 of last year. It also represents an increase of 100,274 in just the last month, since January 1, 1973.

Over the year, therefore, we have added enough additional people to fill three cities the size of Denver, Colo., and in just 1 short month, we have added the equivalent of Duluth, Minn.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FLOOD CONTROL ACT OF 1973

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, S. 606, which the clerk will state.

The bill was read by title, as follows:

A 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.

The PRESIDING OFFICER. Debate on this bill will be limited to 2 hours on the bill, 30 minutes on amendments in the first degree, 20 minutes on amendments to amendments, and 10 minutes on motions and appeals.

Who yields time?

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

Mr. President, I wish to express my strong support for S. 606, as reported by the Committee on Public Works. The distinguished chairman of the committee, Mr. RANDOLPH, yesterday described the many provisions of the bill now before the Senate. He has explained that this bill is identical to legislation adopted last year by the Congress, but subsequently vetoed.

I shall not attempt to discuss all of the details of the bill, since Chairman RANDOLPH has most ably presented them to the Senate.

Rather, I should like to concentrate my remarks on the general reasons why I believe this legislation should be enacted.

As I have noted, this exact bill has previously won the approval of the Senate. While it was the product of a conference committee with the House, and thus a compromise, it carries forward many new and important projects and concepts for the development of our national water resources.

There are a number of general factors about this bill that argue for support of passage, I believe. The estimated cost of the bill is a bit under $600,000,000. This represents the smallest authorization in an omnibus bill in a generation. Frankly, I believe that if we do not pass this bill now, in its present form, it can only become more swollen in cost.

The President has criticized the Congress—and rightly so—for excessive spending. But I would point out two reasons why I believe this bill represents, in no way, an act of irresponsible spending. It is an authorization bill. As such, it has no real impact on the size of the Federal budget. This bill merely approves a number of important projects that we can then evaluate, within a system of national priorities, for funding in future years.

I certainly do not mean to invite inaction on these projects. But clearly, there will be some that are more essential than others. Many of these projects and provisions are probably more necessary than projects authorized in the past. By authorizing this package now, we can allow the Executive and the Congress to more effectively establish real priorities in our water resources program. Our goal as a Congress should be to enable the people of our great Nation to receive the best possible program at the least possible cost. Authorization of these projects now will allow such a program to go forward.

In that context, I would like to reflect for a moment on the President's statement at the time he vetoed identical legislation last autumn.

Let me phrase it another way. It is my view that the President, together with the Congress, must establish an overall spending limit. Equally important, the Congress has the responsibility to determine national priorities within any such spending limitation.

This legislation represents a careful determination of some of the water resources projects that must be added to a consideration of priorities within such a limitation.

Another issue of some importance within this bill involves section 72, the provision that places a moratorium on any change by the Executive in the principles and standards used in evaluating water resources projects.

The setting of such standards and principles, I believe, is very definitely a responsibility of the Congress. The imposition of a reasonable moratorium—one that will last for 11 months from this date—will give the Senate Committee on Public Works and other committees in the Congress the time they need to properly evaluate the arguments for and against any changes in these standards and principles.

It will be my intention to do all that I can to see that such a thorough and effective study is carried out so that the Senate may consider the basic issue of standards and principles later this year.

And I would add a few more comments. The distinguished chairman of the Committee on Public Works, Mr. RANDOLPH, has expressed his hope that Members will refrain from substantive amendments to this bill. I share Chairman RANDOLPH'S view, and I urge the Senate to approve S. 606, without adding projects, deleting projects, or adding to the cost of the bill.

It is our hope that we can win House approval of an identical bill. The addition of amendments by the Senate at this time would undermine that hope and possibly make it very difficult for the Congress as a whole to act on a reasonable bill anytime in the near future.

Before closing, I would now like to discuss briefly provisions in the bill that affect Tennessee. In total, this bill contains individual projects and provisions directly affecting about 35 States. Tennessee is one of those States.

The first Tennessee provision appears in section 1, and involves modifications to the authorized west Tennessee tributaries aspect of the Mississippi River and tributaries project. An existing project calls for the enlargement and realinement of 110 miles on the Obion River system in northwestern Tennessee. The purpose of this work, about 32 percent complete, is to control floods and improve drainage.

But with this work have developed problems that concern me. For one thing, land in the flood plain has been cleared, reducing wildlife cover and lessening hunting and fishing opportunities.

The provision authorized by S. 606 would modify the authorized project for the Obion and Forked Deer Rivers to allow acquisition of 14,400 acres for fish and wildlife management purposes, including development of the Gooch and Tigrett Wildlife Management Areas.

Development would include a combination of low water weirs, to create permanent pools, and other water development structures. This work would, in the view of the Corps of Engineers, provide new fish and wildlife habitat to compensate for losses as a result of the construction of the authorized project. The proposed provision calls for transferring the 14,400 acres in the Department of the Interior and for supervision of fish and wildlife activities by the State of Tennessee. It is estimated that these changes in the authorized project will cost $6,000,000.

Another item of particular interest to me is section 18, which directs the Secretary of the Army to sell, at fair market value, 38 acres of land within the Old Hickory lock and dam project. The buyer would be the Jackson Lodge No. 5, Fraternal Order of Police, of Nashville.

The lodge currently leases this tract for use as a youth camp. Following the sale, the lodge must continue to use this land as a youth camp facility, or the land would revert to Federal ownership. I believe this is the most meritorious concept, and I commend Andrew Jackson Lodge No. 5 for its desire to purchase this land for such a worthy purpose.

The third provision of particular in-

terest to me in section 61 of S. 606. This section establishes the Big South Fork National River and Recreation Area, located along the Big South Fork of the Cumberland River, the New River and the Clear Fork, located in both Kentucky and Tennessee.

The Big South Fork project is the culmination of studies which began more than 30 years ago. Since that time, various studies of the Big South Fork Basin led to the development of the Devil's Jumps Dam project. This project was approved five times in the Senate, but failed to win approval in the House of Representatives. The Dam proposal met with opposition from environmentalists over its impact on the important geologic features of the gorge area. Power companies also challenged the need for the dam as a public power source.

An amendment to the Flood Control Act of 1968, sponsored by the Honorable John Sherman Cooper of Kentucky, directed the Chief of Engineers, the Secretary of Agriculture, and the Secretary of Interior to "review and prepare such alternative plans as they may determine feasible and appropriate for the use of the Big South Fork of the Cumberland River and its tributaries in Kentucky and Tennessee and necessary contiguous areas for recreational, conservation, or preservation uses of such areas and report to the Congress." This Interagency Report was submitted to Congress on February 12, 1970.

The report set forth six alternatives for the Big South Fork: acceleration of existing Federal, State, and local programs dealing with renewable natural resources in the basin; construction of dams at various heights and locations along the river; establishment of a scenic river; establishment of a National Recreation Area; expansion of the existing national forest; and establishment of a national park.

While the report did not make a recommendation, a comparison of the various alternatives shows that a national recreation area would produce more long-term employment and more tourism than any of the other five alternatives. For this reason, and since the alternative of a national recreation area furnishes a flexible framework for the preservation of the gorge, while developing the recreational potential of the area, the Committee on Public Works selected this as the basis for a proposal to the Senate. I believe it was a wise choice.

Since the introduction last year of S. 3349, a bill to establish the Big South Fork National River and Recreation Area, support for this approach has grown. Environmentalists, I believe, recognize the great value of the natural scenic resource in the Big South Fork Gorge and believe that this proposal will adequately preserve the area for the enjoyment of present and future generations. Local residents also, I believe, support this approach, both as a way to preserve the gorge area and to help develop the economic potential of central Appalachia.

A national recreation area will serve both of these needs.

The project area in S. 606 consists of a maximum of 125,000 acres, a substantial reduction from the acreage recommended in the interagency report, though the high quality water recreation areas remain undiminished. Adequate protection is afforded for the gorge area, but areas of low recreational potential are excluded. Also, residents within the boundary of the project area are given the right to retain their property for their lifetime or for a term of 25 years.

Under the plan in S. 606, the only changes in the gorge area will be improvements to the existing access roads, new day-use facilities along these access routes, restoration of historical sites, and creation of primitive campsites for access by water.

While the total cost of the project is estimated at $32,850,000, it should be noted that the alternative of a Devil's Jumps Dam would cost an estimated $200 million.

In closing, Mr. President, I wish to reiterate my support for S. 606, as reported, and urge my colleagues to support it.

Mr. SCOTT of Virginia. Mr. President, I wish to join the distinguished ranking member of the Committee on Public Works, Mr. BAKER, in expressing my support for S. 606, the Flood Control Act of 1973. It contains specific projects that will benefit the people of many States, as well as a number of more general provisions with important national application. Both Mr. BAKER and the distinguished chairman of the Committee on Public Works, Mr. RANDOLPH, have laid out in some detail the various provisions of the bill. Rather than repeat those views, I would like to bring to the attention of my colleagues three provisions in section 1 that will have a beneficial impact on the people of Virginia.

The first of these projects involves construction of beach erosion protection at Virginia Beach. Coastal erosion and damage as a result of storms has, for many years, affected adversely both residential and commercial properties in Virginia Beach. The proposed improvements would affect 6 miles of the Atlantic coastline at Virginia Beach. The project would create a 100-foot-wide beach, rising to an elevation 10 feet above mean sea level. In places, it would involve the addition of sheet pile wall, stone riprap, concrete cap, and a raising and strengthening of existing dunes.

The estimated cost of this work is $17,010,000, of which $5,831,000 would be contributed by the local people. But for every $1 of cost, it is estimated that this work would return $2 in benefits to the public.

A second project involves the city of Buena Vista, Va., which is threatened with flood damage caused by the Maury River. The recommended improvements consist of 11,700 feet of combination riprapped floodwall and levee along the left bank of the Maury River, together with straightening and widening the existing channel to a bottom width of 200 feet and diversion of interior runoff. At a cost of $11,539,000, this project would greatly reduce the danger of flooding, providing $1.40 in benefits for each $1 of cost.

The third project of particular interest to me is contained in the section headed "Water Resources in Appalachia." It involves construction of Hipes Reservoir on Craig Creek, 25 miles north of Roanoke, where there are problems of flooding and water quality. There is also an opportunity for water-oriented recreation in this section of the James River Basin. This area is afflicted by both underemployment and unemployment.

The project plan consists of the multipurpose Hipes Reservoir and the associated trout rearing station and downstream fishery. This reservoir, in conjunction with Gathright Reservoir, will prevent about 90 percent of the flood damage in the Upper James River Basin. Water quality improvements would include temperature control needed for trout rearing station and downstream trout fishery. Since this area is readily accessible to the people of cities like Richmond, Va., and Washington, D.C., enhancement of the recreation industry in the basin will boost regional income.

Mr. President, in conclusion, I wish to reiterate my support for this bill. As ranking minority member of the Water Resources Subcommitteee, I believe it deserves the support of my colleagues.

Mr. McCLELLAN. Mr. President, last year, when the omnibus rivers and harbors bill was reported from the Committee on Public Works, the language dealing with the Cache River Basin contained reference to a report of the Chief of Engineers dated May 12, 1972. That report recommended modification of the Cache River project for the acquisition of mitigation lands. When the bill was considered on the floor of the Senate I suggested an amendment which was incorporated in the bill that the President vetoed. That same provision in identical form is now incorporated in S. 606, which is now the pending business of the Senate. My amendment last year did not refer to that report. It was not my intention, and I assume it was not the intention of the distinguished Senator from West Virginia, chairman of the Public Works Committee, for my amendment to reject in any way the report of the Chief of Engineers dated May 12, 1972. It was rather my intention that the report would continue to serve as a working guide for mitigation of wildlife damage occasioned by the project. It is further my assumption that to the extent that the report is consistent with the language of S. 606, the corps may proceed accordingly.

Mr. President, I ask the distinguished senior Senator from West Virginia whether my assumptions are correct insofar as his understanding of the language contained in S. 606, referring to the Cache River project.

Mr. RANDOLPH. The distinguished Senator from Arkansas is entirely correct in his assumption that the language in S. 606 as it relates to the modification of the Cache River basin project is not intended in any sense to conflict with, or negate, the primary purpose of the May 12, 1972, report by the Chief of Engineers dealing with acquisition of mitigation lands.

Even though the distinguished Sena-

tor did not allude to the report at the time he offered his amendment to the Cache River section during last year's floor debate of the Flood Control Act, it was at all times my own understanding that he intended the provisions of that amendment to operate in concert with those detailed by the Engineers' proposal.

That was also the understanding of the Public Works Committee when it reported S. 606 without change but I am glad to have the Senator's comments on the subject now and I thank him for them.

In response to my colleague from Arkansas, I could discuss this matter more fully but that will not be necessary, because, as the Senator will recall, last year this matter was a point on which we had discussion. The project at that time was in the same position as it is today.

Mr. McCLELLAN. I thank the distinguished Senator. I only wanted to make the legislative record clear so that our intention with respect to this language and the purpose it is to serve would not in any way be misconstrued after the bill was enacted. I thank the distinguished Senator for his cooperation and for the response he has made to my inquiry.

Mr. RANDOLPH. Let me add only that the Senator from Arkansas has been very diligent about this matter. There is importance in this project to the people within the State that he so ably represents.

Mr. McCLELLAN. Very much. In other words, the opposition to the project relates to the diminishing area of lands that accommodate wildlife in that section of the State. Those lands are rapidly being cleared and placed in cultivation. Without this provision in the bill, which would authorize the acquisition of those lands for mitigation purposes, there would be lost to the people the opportunity for the preservation of wildlife and to provide a habitat for it.

Mr. RANDOLPH. Yes, and I again thank my colleague from Arkansas, and can assure him that we have the same purpose in mind in committee as he has so well expressed here in the Senate itself.

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

Mr. RANDOLPH. I yield.

Mr. JACKSON. Mr. President, I ask unanimous consent that Jerry Verkler, of the staff of the Committee on Interior and Insular Affairs, be permitted the privilege of the floor during the consideration of the pending bill.

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

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

Mr. RANDOLPH. Yes; I am glad to yield to my able colleague from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to ask the distinguished Senator from West Virginia, floor manager of the bill, about a particular project which is of great interest in my part of the country and is known as the Charles River Basin watershed proposal. This is a program which has drawn the attention of the Congress since 1965 and concerns itself with problems of flooding of the Charles River and the Charles River Basin. A very lengthy study was done by the Corps of Army Engineers involving a broad spectrum of public participation—various conservation groups, private citizens; and other interested agencies of local communities. They worked together to develop a program to meet the particular problems of flood control that are present in that river basin. This program also was sensitive to environmental considerations, which are fragile, indeed, in an area which is as urbanized as that particular section of Massachusetts.

In the time I have been in the Senate and have been concerned with the preservation of historic and ecological and scenic areas of my State, it is rare, indeed, that we have had a proposal that has brought about the kind of harmony among various groups and interests that has been evidenced in this program.

I want to draw this matter to the attention of the chairman of the committee, who is the floor manager of the bill. I know he is aware of this proposal. He has been sympathetic to it in the past. He has reminded us that we have not received a final recommendation from OMB yet. While the funding cost for this program, $7.3 million, certainly is a sizable figure, it is probably one of the most judicious and expeditious expenditures we could make when we recognize what such an expenditure will achieve in terms of flood control, drainage, environmental, open space, and recreation benefits, and in improving the quality of water.

So I raise this issue as the Senate considers the rivers and harbors bill, realizing full well that in a short period of time the Senate and the committee will also be concerning themselves with the river basin bill, which would also lend itself to this kind of amendment.

I am interested in the guidance that the chairman of the Public Works Committee might give those of us in Massachusetts and New England who realize the importance of this project and who want to be able to work with the chairman of the committee in determining how best to proceed.

Mr. RANDOLPH. Mr. President, the senior Senator from Massachusetts (Mr. KENNEDY) has certainly this afternoon—as he did last fall—impressed not only me but also the members of the Committee on Public Works. We were impressed by his presentation. He has evidence which he has presented here in rather a brief discussion. Then he detailed the reasons for the development and support for this Charles River Watershed basin. As the Senator from Massachusetts has indicated, we do not yet have a clearance from the Office of Management and Budget. However, I would certainly expect that action before long. Even though it is not included in the measure today, I pledge, as I did to him personally on yesterday, that when we have the river basin authorization bill before us the committee will give full consideration to the Charles River Watershed project.

Mr. President, I see no reason why we cannot take action on this project. I feel that it has value. Personally, I think that it is of vital concern, as has been indicated, to the people in the Commonwealth of Massachusetts.

So, I reassure the Senator from Massachusetts that the project will receive consideration at the earliest possible date. The hearings process will be followed and perhaps we can give an extra nudge downtown, so that we will have action.

Mr. KENNEDY. Mr. President, I think the Senator from West Virginia would have to give it more than a nudge in order to get action downtown. However, in any event, I thank the chairman, the Senator from West Virginia, who has been extremely responsive to this project which, as I have mentioned, will affect close to 1 million citizens of Massachusetts and involve an expenditure of a relatively small amount of money. It will provide an opportunity to take advantage of the various municipal lands, and conservation groups will be able to preserve about 8,500 acres in a heavily metropolitan area.

Mr. President, I think the kind of formula that has been worked out with the Corps of Engineers might very well be a model for other parts of the country on how best to meet the problems of water storage and beneficial water utilization and recreation as well as being sensitive to the protection of wildlife.

Mr. RANDOLPH. Mr. President, I emphasize what the Senator has so well pointed out. There are factors that go into this project that, to me, make it not only attractive, but also necessary. Economics are involved. The environmental situation is certainly inherent in such a project. And social questions are involved. I think it will not only mean an expenditure of money, but it will also pay a dividend.

Mr. President, I said rather lightly, prehaps, that we would nudge the Office of Management and Budget. However, if the nudging does not do any good, I for one will be ready to proceed.

Mr. KENNEDY. Mr. President, I thank the chairman of the committee. With that assurance I am most pleased. The Senator has been most sensitive to this particular program and project. I look forward to the opportunity of working with the distinguished Senator from West Virginia when the basin measure comes before the committee and on the floor. Hopefully we will be able to get action on a program that will do much to benefit the people in the Charles River watershed basin.

Mr. RANDOLPH. Mr. President, while the Senator from Massachusetts (Mr. KENNEDY) is still on the floor and we are thinking of this subject, I am delighted to report, as I did yesterday to the Senate, that we have a new ranking minority member of the committee in the person of the Senator from Tennessee (Mr. BAKER), who comes to that position following the retirement of former Senator John Sherman Cooper.

It is not a pleasantry, Mr. President, when I say that the Senator from Tennessee (Mr. BAKER), during the period he has been a member of the Public

Works Committee, has been very sensitive to projects such as that under discussion at this time. Always within the committee it shall be the purpose of the Senator from Tennessee and the chairman of the committee and the other members to think of the broad benefits that flow from a particular project when communities throughout the country may be strengthened because of our action.

Mr. President, I thank the Senator from Massachusetts.

Mr. BAKER. Mr. President, let me thank my distinguished chairman for his excessively kind remarks. I am deeply grateful.

I look forward to our continuing relationship on the committee and the pleasant cooperation that was established between the Senator from West Virginia and our former colleague, Senator Cooper of Kentucky.

Mr. BAKER. Mr. President, I yield to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. PEARSON. Mr. President, I thank the Senator from Tennessee for yielding to me.

Mr. President, I rise to speak briefly in support of sections 15 and 16 of this particular act not only because they provide needed relief in my State but also because I think it is somewhat of a hallmark and breakthrough in recognizing a very serious problem in building some of the Federal reservoirs or lakes throughout the country.

These particular sections give aid to provide for access roads at three Federal lakes located in Kansas, two of them in a single county. Those two lakes are Pomona and Melvern. These two lakes are located in a very small county, a county with a population of only 13,000 people and a land area of 750 square miles.

The county has already obligated itself in the sum of about $1 million to provide for the construction of bridges which are necessary to the farm-to-market roads. In addition, they found themselves unable to secure any sort of aid from the State. So, with regard to these reservoirs where some million people in the summer months are going in and not producing any sort of economic benefit which flows from sales of any kind, we find that a great burden is being placed upon communities such as this along with the great benefits of flood control and water supply.

I just want to make an expression of appreciation to the chairman and to the Senator from Tennessee. They accepted this proposal last year in the form of an amendment and, not taking it just to take it to conference, they took it to conference and it was accepted there.

It is a matter of great importance to communities of this kind, which find themselves totally unable to provide for adequate roads. We have, I think, somehow or other built these great Federal lakes with really no sensible way to get people in and get people out. This sum of $500,000 is small in comparison to the national need or State needs, but I think it is a significant thing for the committee to do, and I should like to express my appreciation to the chairman and the ranking minority member of the Committee on Public Works.

To explain briefly the provisions affecting Kansas, section 15 authorizes the Chief of Engineers to determine which of the unsafe, narrow gravel roads leading to the Melvern and Pomona Lakes most require paving and to carry out this work. The total estimated cost of road and bridge improvements needed in the areas of Pomona and Melvern Lakes has been given at over $2.5 million by engineering consultants to the county. Only one-fifth of this amount is sought in the bill before us today.

Section 16 is a more specific authorization for the Chief of Engineers to improve a 5½-mile section of gravel road used both by local farmers and visitors to the Tuttle Creek Lake near Manhattan, Kans. Like Pomona and Melvern, Tuttle Creek lies in the Kansas River Basin within a short drive of several rapidly growing cities—Topeka, Lawrence, Manhattan, Emporia, Salina, Kansas City, and others. At present, this gravel secondary road cannot in the summer months adequately handle both local and tourist traffic. Its improvement would restore to farmers in the area a route at least equal to what they had before Tuttle Creek Lake was constructed.

Thank you, Mr. President.

Mr. RANDOLPH. Mr. President, the able Senator from Kansas (Mr. PEARSON) is correct in stating the history of the project to which he addresses himself this afternoon. I thank him for reviewing with us these activities of great importance to his State.

In any event, there will be no problem in connection with this matter, and I appreciate the Senator's remarks.

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

Mr. RANDOLPH. I yield to my colleague from Maryland.

Mr. BEALL. I thank the Senator.

As the chairman will remember, in considering last year's bill there was some concern expressed about the Potomac River and the water supply of the city of Washington. As we know, because of the uneven water flow in the Potomac River, there occurs from time to time a very serious shortage of water in the District of Columbia and the areas surrounding the District of Columbia, northern Virginia, and the metropolitan Maryland region.

Engineers have predicted that in the near future there is a distinct possibility that we may wake up from the middle of a slumber and be without water. Some of us are concerned because this year there has been no snow in the mountains of West Virginia or western Maryland, because eventually that snow, upon melting, will find its way into the Potomac River and give us our drinking water supply, come spring and summer.

The committee and the Senate last year very kindly included money for the Sixes Bridge Dam and the Verona Dam, and the House of Representatives, of course, refused to accede to this request and did not include these projects, and as a result of a conference they were struck from the bill. I notice they are not included in the bill now, and I wonder if the distinguished chairman of the Committee on Public Works could enlighten me as to the reasons why they were not included, and what the possibility is for early approval of these particular dams.

Mr. RANDOLPH. Mr. President, before replying directly to the question of my diligent colleagues from Maryland, I want to say that I am very sorry, too, that we have not had more snow in western Maryland and in the areas of West Virginia which are adjacent to Garrett County and other sections of the Senator's State.

Frankly, we have considerable investment now in resorts that have been keyed to skiing. Just as one of the entrepreneurs with which the Senator is familiar in Braddock Heights has suffered almost bankruptcy this year because of lack of snow, we know that this is rather general, particularly up in the Deep Creek area of Garrett County and across in West Virginia in the area near Davis and Alpine Lake, near Terra Alta. All of that area, which usually has a heavy snow coverage in December and January, has not had those accumulations this winter.

That does not say that I want the snow to extend to Washington, D.C., but certainly I want it in the parts of Maryland of which the Senator speaks on the specific question of Sixes Bridge, it and the Verona project in Virginia were deleted from the conference report after having been in our Senate measure last year. That took place in conference, because they were based, in part, on low flow agumentation. The Corps of Engineers is actively, at the present time, restudying those two projects as sources of water supply. I think this is a vastly more important facet of such projects.

The report from the Corps of Engineers should come in the spring, and there is no reason, as I see it, I say to my colleague, why this program would not be included in the river basin authorization bill that the committee will consider this summer.

Mr. BEALL. Will the Senator yield further?

Mr. RANDOLPH. Yes.

Mr. BEALL. I was just going to place in the RECORD, if I may, a paragraph from page 42 of the conference report on last year's bill, which reads as follows:

> However, based on information available to the Conferees, it is clear that the projects can be justified for purposes other than low flow augmentation for water quality. For example water supply needs might justify the projects. Accordingly, the Conferees direct the Secretary of the Army, acting through the Chief of Engineers, to reformulate the Sixes Bridge and Verona projects, and resubmit them to Congress as soon as possible but in no event later than June 30, 1973.

It is my understanding that the distinguished chairman is now indicating that it is still the intent of the committee, the conferees, and the Senate that this language still applies, and that the Corps of Engineers is still under a mandate to come back here by no later than that date and give us its recommenda-

tion, and that we can, I would assume, on that recommendation, if it is what we think it is going to be, be able to act prior to the end of this year?

Mr. RANDOLPH. Yes. We must act. I am not an alarmist, but I am a realist, and I know that of all the large cities of this country, Washington, D.C., our Capital, has no storage for a reserve supply of necessary water. We are just relying on the natural flow of the Potomac River. I hope the Senator will not feel I am being provincial when I remind him that its headwaters are in West Virginia. We start OK up there, but sometimes, as we come downstream, problems arise.

It is a serious problem, and I want to underscore again that Washington is unique, on the bad side rather than the good side, as to an adequate supply of water to take care of the needs of the District of Columbia and this most rapidly growing area of the country.

Mr. BEALL. I thank the Senator for those words and that assurance. We are all aware of the problem that exists, but his particular awareness is most important, because he will be the manager of the bill as it comes before us. I am glad to have the reassurance that the mandate to the Corps of Engineers still stands, and we can look forward to action on this project.

Mr. RANDOLPH. Is the development of Bloomington continuing?

Mr. BEALL. This year the President's budget contains another $13 million for further construction. This is somewhat less than had been estimated, although it is probably all the Corps of Engineers can reasonably spend this year. It is expected that it will be in operation perhaps by 1978, which will help our water supply but will not be of any immediate help because of the time required for the water to get from Bloomington to Washington. It is about an 18- to 21-day trip for the water to get here. These two dams will not be of immediate importance because they will not be able to respond in time to alleviate the serious shortage in timely fashion so that the water would be available when needed and there is no rain.

Mr. RANDOLPH. I am thinking back. I do not want to belabor the point but who was the Representative from the district before your father? I served with both of them. What was the name of that Representative?

Mr. BEALL. Who preceded him?

Mr. RANDOLPH. Yes.

Mr. BEALL. William Byron.

Mr. RANDOLPH. Before that—I am sorry.

Mr. BEALL. That was David J. Lewis.

Mr. RANDOLPH. That is it.

Mr. BEALL. And then Fred Zihlman before that.

Mr. RANDOLPH. He was talking about this kind of project then, as your father was.

Mr. BEALL. Right.

Mr. RANDOLPH. In both House and Senate. That causes me to ask the question.

Mr. BEALL. Yes, and we are very grateful for the Senator's cooperation.

Mr. RANDOLPH. What benefit has come from the Savage River Dam?

Mr. BEALL. The Savage River Dam has been extremely important for the Potomac River. It is a flood control dam basically, as the Senator well knows. They control the flow out of the Savage River Dam so that the early-year buildup does not create flood conditions of the kind that existed in 1936, for instance. The supply of water is of minimal value. It has helped, however, in cleaning up the river and producing the kind of flow that controls water pollution, and we are very grateful for that. The Bloomington Dam will be of even greater benefit for water pollution control purposes. Also, something may happen here that will help to clean up the Potomac River in this area. These two dams will contribute to cleaner water in this area. Of course, the more immediate problem here involves the construction of sewage treatment plants.

Mr. RANDOLPH. Yes, these factors are all involved. The West Virginia Pulp and Paper mill is on the mountainside of the Potomac River, but on the West Virginia side. Several hundred persons are employed there. What is your total employment figure?

Mr. BEALL. About 2,100 people. It is interesting to note that that company has been progressive because, as the Senator from West Virginia knows, they built one of the first industrial waste treatment plants in the country and contributed it to the community for public use and this has helped in cleaning up the Potomac River.

Mr. RANDOLPH. The water supply is used for many purposes including, of course, the stability of the plant itself.

Mr. BEALL. There is no question about that.

Mr. RANDOLPH. I thank my colleague from the adjoining State.

Mr. BEALL. I thank the Senator from West Virginia for his continuing cooperation.

Mr. RANDOLPH. We think of the Senator's State as a suburb of West Virginia.

Mr. BEALL. In this case, we are glad to be counted as such. We still rely on the Senator for his largesse and especially for his generous cooperation.

Mr. BAKER. Mr. President, I now yield to the distinguished Senator from Washington (Mr. JACKSON) such time as he may require.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, I call up four amendments at the desk and ask unanimous consent that they be considered en bloc and that reading of the amendments be dispensed with, except for the first one.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be considered en bloc. The first amendment will be stated, and the three remaining amendments will be printed in full in the RECORD.

The legislative clerk read the first amendment as follows:

On page 40 line 6, following the period after the word "section" change the period to a comma and insert the following: "and substantially completed the construction of all access roads, day-use facilities, campground facilities, lodges and the necessary administrative buildings. After said publication of notice, the Secretary shall transfer the jurisdiction of the Big South Fork National River and Recreation Area to the Secretary of the Interior who shall administer the national river and recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented. In the administration of the national river and recreation area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this Act. The Secretary of the Interior may revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand. Following such transfer the authorities available to the Secretary for the acquisition of lands and interests therein in subsection (c) of this section shall likewise be available to the Secretary of the Interior."

The texts of the next three amendments are as follows:

On page 49, strike lines 1 through 4.

(Explanation of proposed amendment:

(The language proposed to be stricken is unnecessary because the Secretary of the Interior, in his administration of this area as a part of the national park system, will develop a recreation plan for the national river and recreation area. It would be unnecessary for the Corps of Engineers to consult with the Bureau of Outdoor Recreation for the area.)

On page 51, line 15, following the comma after the word "Engineers" insert the following: "or the Secretary of the Interior, at such time as jurisdiction over the national river and recreation area has been transferred to him pursuant to subsection (b) of this section,".

On page 52, delete line 12, and insert in lieu thereof the following:

"(j) (I) Until such time as the transfer of jurisdiction authorized by subsection (b) of this section shall take place, for the purpose of financially assisting the".

The PRESIDING OFFICER. Time on these amendments is limited to 30 minutes, with 15 minutes on each side.

EXPLANATION TO AMENDMENT NO. 1

Mr. JACKSON. Mr. President, the purpose of this amendment is to turn the project over to the Secretary of the Interior for administration by the National Park Service under applicable laws. This would allow the corps to purchase the lands, construct the improvements authorized by the act, and turn it over to the Park Service for administration. The Congress has not placed the administration of a national river nor recreation area under the jurisdiction of an agency other than the National Park Service or the U.S. Forest Service whose primary function is the management of lands and associated natural resources for recreation, and in the case of the Forest Service for multiple use, including recreation. We feel it would not be good policy to place the Department of the Army through the Corps of Engineers in the business of administering land solely for recreation and preservation purposes and that this area, when completed, should properly become a unit of the national park system administered by the Secretary of the Interior.

Mr. President, I ask unanimous consent that statements regarding the other three amendments be printed in the RECORD. They are in conformance with the first amendment.

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

AMENDMENT No. 2

Proposed amendment to S. 606 is as follows:

"On page 49, strike lines 1 through 4."

(Explanation of proposed amendment:)

(The language proposed to be striken is unnecessary because the Secretary of the Interior, in his administration of this area as a part of the National Park System, will develop a recreation plan for the national river and recreation area. It would be unnecessary for the Corps of Engineers to consult with the Bureau of Outdoor Recreation for the area.)

JACKSON AMENDMENT No. 3

This is a conforming amendment. The purpose is to make sure that the proposed study authorized by subsection (h) will be carried out after the lands have been transferred to the Secretary of the Interior. Until the transfer, the Secretary of the Army could begin the formulation of the comprehensive plan.

EXPLANATION TO JACKSON AMENDMENT No. 4

The purpose of this section is to authorize "in lieu payments" to the local counties affected in the States of Kentucky and Tennessee to make up for taxes which would be received from private property which is acquired for the project. This represents a departure from our normal Congressional policy when authorizing a unit of the National Park System or recreation area. The purpose of the amendment is to allow these in lieu payments to take place until the area is transferred to the jurisdiction of the National Park Service to be administered as a unit of that system. This would provide transitional aid to the local governmental units. However, it has generally been true whenever a national park or recreation area has been established, studies have indicated that the additional revenue generated by the tourism and related development more than offset the initial loss of property taxes. That is why the Interior Committee and the Congress has not accepted the principle of in lieu payments for park and recreation areas where the Federal government will be investing large sums which will have their most favorable impact upon the local economies.

Mr. BAKER. Mr. President, I would like to briefly comment upon the amendments proposed by the Senator from Washington.

First. I want to thank him for his openness and candor in the development of these changes. The authorization of national recreation areas is normally within the jurisdiction of the Interior Committee, of which he is the chairman, and the responsibility is very capably and industriously executed both by him, the members of his committee, and their staff. Were it not for the extenuating circumstances which mark the evolution of the Big South Fork National River and Recreation Area, the consideration of this bill would have been in his committee. The Corps of Engineers has been in the process of studying, developing, and reporting on various proposals for the preservation, development, and management of the area set out in this bill for several decades. They have developed a tremendous knowledge of this little charted area and close association with the people who reside there. I feel that this background should be put to full use in the construction and initial development of the project.

However, I have no objection to the transfer of the administration of the project to the Department of the Interior or to the National Park Service at such time as it is certified by the corps to be substantially complete and is administrable as a unitary recreational project. I would add only one brief word of caution—it is not my intention in this to have the corps constituted the agent of the National Park Service in the construction, land acquisiton, or any other developmental activity.

I would hope that the corps would consider the suggestions of the Park Service and the Bureau of Outdoor Recreation. But I am entirely confident in the ability and expertise of the corps to handle the initial development of the project and intend that they should exercise prime control over that aspect.

The second portion of the Senator's amendment regards in-lieu-of-tax payments which are included in the proposal. I am aware that these payments have never been authorized before. Certainly I agree such payments should be authorized only under extreme circumstances and with great care.

The several counties in which this project will be located are among the very poorest in the county. McCreary County, Ky., is, I believe, among the two or three most depressed counties in the entire Nation. There is almost no industrial development and little commercial development of any kind in this area. Much of the tax base is composed of open, unimproved lands such as those included in the project. While the total tax collected on the property is very small by Federal standards, it is a very large portion of these counties' revenues. And there simply is no place else for them to go to replace these revenues.

The argument is made and not without basis—that this project and others like it enhance the taxable property values and economy of their locales. While that is true in the long run, it certainly is not during that period in which land acquisition and development is going on. Therefore, I am willing to accept the Senator's amendment which provides that these payments will be made until such time as the Corps of Engineers certifies the project to be substantially complete.

Mr. President, I think that the proposal made by the distinguished chairman, the Senator from Washington (Mr. JACKSON), is entirely practical and feasible. It is a highly desirable change. It represents the close scrutiny and the attention of the Interior Committee to this project. I am frankly delighted they have given it their attention and that we have arrived at an accommodation which permits the Corps of Engineers to construct the project and the Department of the Interior and the National Park Service to operate it.

It is a highly constructive amendment and I wish to express my personal appreciation to the Senator from Washington for offering it.

Mr. President, I ask unanimous consent that the staff of the Public Works Committee be allowed to make any further technical changes needed to conform the amendments by the Senator from Washington (Mr. JACKSON) to the balance of the text of the bill.

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

Mr. JACKSON. Mr. President, as chairman of the Interior and Insular Affairs Committee, I want to express my appreciation to the Senator from Tennessee for his cooperation in working out the amendments. I believe that the net result here will be to provide for the people of that great area the kind of management they would like to see. The Senator, by his cooperation, has made it possible to work out a solution that will meet the interests of the people of the area. I want to express my deep appreciation to him and to the chairman of the Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH), who has likewise cooperated in working out an appropriate, I think, solution to this matter.

Mr. BAKER. I thank the distinguished Senator from Washington. I am very grateful for his remarks. In this connection, I have one or two other matters that I would like to attend to now——

Mr. JACKSON. Can that wait until we vote?

Mr. BAKER. I would like to have a vote on the amendments en bloc that have been ordered by the Senator from Washington first.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BAKER. Mr. President, I yield to the Senator from West Virginia at this time.

Mr. RANDOLPH. Mr. President, I shall only briefly comment on the colloquy. I am familiar with the Big South Fork proposal so ably developed by former Senator John Sherman Cooper and the senior Senator from Tennessee (Mr. BAKER). The Public Works Committee five times authorized the Devils Jump project—in 1962, 1963, 1965, 1966, and 1968. Each year the House conferees adamantly refused to approve the project—which was to be a high dam, having hydroelectric facilities, with a Federal cost estimated at that time of $203 million.

As the chairman of the committee through all these years, I worked closely with Senator Cooper—who served so ably as the ranking Republican member of the committee.

Given the stalemate between the Senate and House of Representatives, in 1968, Senator Cooper introduced an amendment in conference—which was accepted—to direct the Corps of Engineers to update its report on the feasibility of the project and second to direct the Corps of Engineers, the Department of the Interior and the Department of Agriculture to prepare alternative plans for the recreational, conservation or preservation uses of the Big South Fork, its tributaries and contiguous areas.

Growing out of this report of alternatives, in March 1972, Senator Cooper and the senior Senator from Tennessee (Mr. BAKER) introduced a bill authorizing the establishment of the Big South Fork National Recreation Area in the States

of Kentucky and Tennessee in lieu of the Devils Jump Dam project. The cost of the recreational proposal would be less than $33 million as opposed to over $200 million for the Devils Jump Dam.

It is my understanding that the senior Senator from Tennessee (Mr. BAKER) and the chairman of the Interior Committee (Mr. JACKSON) have agreed to revise the Big South Fork provision as it appears in section 61 of the pending bill. While I want to discourage any amendments to the bill which would add any new projects or increase the cost of the bill, I understand these amendments would actually reduce the cost of the project. I also understand that the senior Senator from Tennessee (Mr. BAKER) has talked with Senator Cooper—who, I am assured, is in agreement with these amendments. Senator Cooper was over the years a leader in this matter and I was happy to work closely and warmly with him in developing the Big South Fork proposal.

Given the assurances that the amendments would reduce the cost of the bill without adding any new projects and that Senator Cooper is in agreement with the amendments, I will support them.

Mr. BAKER. Mr. President, I thank the distinguished Senator from West Virginia for his generous remarks.

It may be of interest to our colleagues to know that I have talked with former Senator Cooper today on the telephone, to apprise him fully of these changes and the great happiness that I felt that the Committee on Interior and Insular Affairs and the Committee on Public Works were of one mind in going forward in this manner. He expressed his delight and his full support for this provision.

In that connection, Mr. President, I have remarks that were made by Senator Cooper last year on this subject, and I think it might be appropriate to include them in the RECORD at this point. I ask unanimous consent that Senator Cooper's remarks of last year with respect to this project be printed in the RECORD, together with remarks of the distinguished Senator from New Hampshire (Mr. COTTON).

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

Mr. COTTON. I only want to say, Mr. President, that through the years, back in the days when I was serving on the Public Works Committee, and now as they come before the Appropriations Subcommittee on Public Works, I have had a good deal of experience with the Corps of Engineers. I can scarcely remember an instance when the Corps of Engineers came in and did not have a compulsive desire to buy something, build something, or dam something—that is spelled d-a-m. I seem unable to remember a single instance of an important project that did not far exceed, before its completion, the first authorization.

We are, of course, legislating at a time when we are running into terrific deficits. This half a billion dollars in itself worries me.

Another point, and it may be minor, but I note on pages 48 and 49 of the bill this paragraph:

"For the purpose of financially assisting the States of Tennessee and Kentucky, McCreary County, Kentucky, and Scott, Morgan, Pickett, and Fentress Counties in Tennessee, because of losses which they may sustain by reason of the fact that certain lands and other property within them may be included within the national river and recreation area established by this Act and shall thereafter no longer be subject to real and personal property taxes levied or imposed by them, payments shall be made to them on an annual basis and in an amount equal to that which they would have received from such taxes but for the establishment of the national river and recreation area."

Now, Mr. President, I have been informed by the Senator from Kentucky that, in his opinion, this would be a negligible amount, but I think we are setting a precedent here.

If my State of New Hampshire had payments in lieu of taxes for the White Mountain National Forest which occupies 25 percent of the area of the State of New Hampshire. I guess it would be the biggest moneymaker for the State of New Hampshire. All over this country, in State after State after State, large areas of States are owned by the Federal Government. In some of the Western States—I do not know, but nine-tenths of their area belong to Uncle Sam. This would establish a new precedent.

While this particular payment in lieu of taxes might be comparatively small, if this is to be the course pursued in the future, I do not know how much the Federal Government would find itself eventually paying to the States, and their subdivisions in lieu of taxes.

I also note in this language—and I thank the Senator from Vermont (Mr. AIKEN) for calling it to my attention—that the amount is to be paid "in an amount equal to that which they would have received from such taxes but for the establishment of the national river and recreation area."

However, it does not say the amount they would now receive.

Mr. AIKEN. Mr. President, the reason I called this to the attention of the Senator from New Hampshire is that when they took land for similar purposes in our area, the reimbursement would be on what was then being paid in taxes. Had that land not been taken by the Federal Government, it might have been 100 times that now, and the taxes coming in would be 100 times as much. So I think there should be some goal there otherwise the sky is the limit on future payments to the communities from whom the land is taken.

Mr. COTTON. Mr. President, I am reluctant in any way to oppose this, because I greatly admire the Senators from Kentucky and Tennessee and their fidelity to their States. I feel rather strongly that this matter of reimbursement for national parks or recreation areas is unfair to the States that already have vast areas taken from them for which they are getting nothing in lieu of taxes.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. COTTON. May I have 2 more minutes?

Mr. RANDOLPH. Mr. President, I yield 2 additional minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 2 minutes.

Mr. COTTON. This sets a precedent. The taxes now paid are very minimum in lieu of taxes, but it does set a precedent for the future. My good friends, whom I admire so much, remind me a little bit of the Scot who not only killed two birds with one stone, but wanted the stone back.

It seems to me that this provision on pages 48 and 49 of the bill is a dangerous provision. I do not know that I can even vote for this bill because of the amount involved with that loophole.

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

Mr. COOPER. Mr. President, I understand the question the Senator from New Hampshire raises. If the Senator will give me a few minutes I will explain why the language is in there, as I can appreciate that it could raise concern about creating a precedent for the future.

However, the example just referred to in th Senator's own State, is similar to the situation in Kentucky. It will take me 2 or 3 minutes to explain what this project is all about.

For years, the Corps of Engineers proposed that a large hydroelectric dam be built in McCreary County in Kentucky on the Big South Fork. That river is a tributary of the Cumberland River that extends into Scott County, Tenn., across the Kentucky-Tennessee line. It is the same river and the very same area as the site of a proposed dam, which the Senator may recall—the Devil's Jump Dam. That was a $152 million proposal, which due to increased costs became more than $200 million.

I remember that on five occasions that I was able to secure passage in the Senate of the Devil's Jump Dam project—and on five occasions the House refused it, although it had the approval of three administrations, and every agency that had an interest in it, including the Federal Power Commission. But because of the opposition of the private utilities from all over the Nation who zeroed in on it, and the opposition of the large coal companies and, finally, the conservationists, we finally decided, Senator Morton and I, Senator BAKER whose father Congressman Howard H. Baker worked for it for years, and Senator Gore, that we could not proceed with the power dam.

Four years ago, we asked the Department of Agriculture, because the Forest Service concerned with the national forest was in that department, the Corps of Engineers, who had planned the dam, and the Department of the Interior, which includes the Bureau of Outdoor Recreation and the Park Service, to propose an alternative for the recreational conservation and preservation uses of this spectacular and unique area. In 1970, they presented six alternatives for the Big South Fork River—a very beautiful river, 90 miles long, which is a very clean river with great palisades and having rippling rough waters—white waters as they are called. This national recreational area would cost about $30 million to establish—about one-fifth of the originally estimated cost of the hydroelectric high dam, which would have resulted in flooding of the gorge behind the dam.

In McCreary County, the recreation area would require perhaps 30,000 acres of land. In Tennessee, as I recall, it requires about 90,000 acres of land. McCreary County, Ky., is a county which I know very well. The U.S. Government already owns some 150,000 acres of land in McCreary County, in the Daniel Boone National Forest. It is a very poor county indeed.

The county receives no payments in lieu of taxes from the Forest Service, except meager amounts from such timber that is sold from the national forest. So looking ahead to a condition where, if this measure should be approved, it would take nearly 30,000 acres of land into the national recreation area—about half of it from the Forest Service, and the remainder from private land—the county would have little left. The national forest is not a national park. It has few recreational facilities. The county would have very little income left. This land, I would assume—knowing it pretty well—is assessed at $30 or $40 an acre. It is estimated that this provision would cost the Federal Government, I think in McCreary County, perhaps $15,000 or $20,000, in an area where they have practically no incomes at all. For the whole project it would be about $100,000 a year.

McCreary County used to be a part of the

county in which I live. It is the county south of mine. Unfortunately, it bears the reputation of being about the poorest county in the United States. To be frank, that is the reason we put it in. It is for a 5-year authorization. If it did not work out in 5 years, the committee and the Appropriations Committee could make such changes as they desire. I wanted to give the Senators the full facts.

Mr. COTTON. Will the Senator yield for another question?

Mr. COOPER. Yes; I will. I may have overstated the figure on the amount of taxes that might be lost. It is my own recollection that it would be much smaller than that. My recollection would be $9,000 per year in McCreary County, if it makes a difference.

Mr. COTTON. I would like to make it very plain and clear to both my friend, the distinguished senior Senator from Kentucky, and my friend, the distinguished junior Senator from Kentucky, that I am not questioning the need in this matter. But I have a recollection in the past half-century of land taken in my section of the country that was purchased for a dollar or $2 or $3 an acre, but its present value would be many, many dollars more an acre.

In my case, as a member of the New Hampshire Legislature, because of the fact that we had some townships and school districts that were almost completely encompassed in the national forest area with a subsequent loss of taxes. I introduced a bill, and the bill passed, by which the State would reimburse these township school districts for the equivalent of one-half of what the taxes would have been at the time of the passage of the bill.

Under this provision, if I read it correctly, if the land taken in this instance should increase its value so that its value would be greatly enhanced, we authorize the payment of an amount equivalent to taxes that not only would be received at its present value, but would increase as its value increases.

Mr. COOPER. Will the Senator yield?

Mr. COTTON. I yield.

Mr. COOPER. I want to make it clear, for interpretation, that is not intended at all.

Mr. AIKEN. That is not intended. That was my problem.

Mr. COOPER. I think that is clear.

Mr. COTTON. Is there anything in the report to indicate that interpretation—in the report that is not before us?

Mr. COOPER. I would be glad to amend the provision immediately, here on the floor, in line with the suggestion, if it is not clear.

Mr. COTTON. I do not think it needs to be amended if the intent is in the report.

Mr. COOPER. I do not recall, but I can tell the Senator that was the intention of the Senator from Tennessee (Mr. BAKER) and myself, who wrote this legislation, and of our cosponsor, the junior Senator from Kentucky (Mr. COOK). I am sure he would agree with me on this.

Mr. COOK. Will the Senator yield?

Mr. COTTON. I do not have any time, but I would be glad to yield.

Mr. COOK. May I say that the basic intention was that the value be established at the time of taking, and once it belonged to the Federal Government, the total project, the value would be established and it could never be revalued.

Mr. COTTON. I think the legislative history made on the floor by both the Senators from Kentucky and the Senator from Vermont would be sufficient protection on that point, and I thank the Senators.

Mr. AIKEN. I was concerned, because the land was taken by the Federal Government from the State of Vermont that was valued at $5 an acre. It was not taxed very much at the time. Some of that land is valued at $5,000 an acre. If there is any stream or any water or any view, the value of the land there is whatever one asks for it. But if a fair value is to be fixed on it, that would be sufficient for tax purposes.

Mr. COTTON. May I say, I am perfectly satisfied on this point by the assurance of the two Senators. I do, however, still have some reservations about setting a precedent for reimbursement of lost taxes on these projects. I am afraid it might rise in the Congress to haunt us sometime in the future and may open the gate for large sums.

Mr. COOPER. Mr. President, I will be glad to suggest this change to make it absolutely clear.

The PRESIDING OFFICER. The Senator may offer his amendment.

Mr. COOPER. I propose an amendment: on page 49, line 5, after the word "taxes", add a comma and insert "at the time of the acquisition of such property".

The PRESIDING OFFICER. Is the Senator offering this as the amendment?

Mr. COOPER. I am.

The PRESIDING OFFICER. Will the Senator please send the amendment to the desk?

Mr. COOPER. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

"On page 49, line 5, after the word 'taxes' add a comma and insert 'at the time of the acquisition of such property'."

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. COTTON. Mr. President, I appreciate the amendment and I thank the Senator. It certainly is complete assurance, but I want to make it plain that I was already willing to accept the legislative history made on the floor by these three Senators. This amendment makes it entirely clear.

The PRESIDING OFFICER. Who yields time? Do the Senators yield back their time on the amendment?

Mr. COOPER. I yield back the remainder of my time.

Mr. COTTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kentucky. (Putting the question.)

The amendment was agreed to.

Mr. BAKER. Mr. President, I yield back the remainder of my time on this amendment.

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

Mr. BAKER. Mr. President, in connection with this project, I send to the desk one technical amendment that might be disposed of at this moment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 40, line 17, after the word "donation" put a period and strike the rest of that sentence.

Mr. BAKER. Mr. President, the power of condemnation is included on lines 12, 13, and 14 when acquisition authority is granted by purchase or by the word "otherwise."

It is unnecessary to specifically include the phrase "eminent domain." This phrase is also confusing at this point because it might be interpreted as changing the acquisition of State-owned lands by means other than by donation only.

Mr. President, I am glad to yield back the remainder of my time on this amendment and to present it to the Senate for consideration.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, I consider the section authorizing a shoreline erosion control program to be one of the most important and significant features of S. 606, the Flood Control Act of 1973, now before this body.

As we are all aware, many of our coastal areas have already suffered serious—and in some cases almost irrevocable—damage and the situation is certain to get even worse unless we devise ways of stopping it now. It is not enough to say that they are there and we hope we can do someting about them. They will not go away.

That condition prevails in the Great Lakes area as well as along the ocean fronts and for that reason I want to stress that the provisions of S. 606 envision equal attention to both categories in the effort to find appropriate remedies.

I have discussed this aspect of the legislation in detail with my good friend and distinguished colleague, Senator BIRCH BAYH, because of his particular concern over the nature and scope of the erosion problem in the Indiana Dunes National Lakeshore along Lake Michigan, and have assured him that I would recommend that attention be accorded that situation if the control program is authorized as I trust will be the case.

He had expected to be here today to personally present his views on that phase of the bill but an unexpected change of plans has forced him to be absent.

I, therefore, ask permission to have printed in the RECORD at this point in my remarks copies of correspondence we have exchanged which outlines his position and the commitment I have made to him on the subject.

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

U.S. SENATE,
COMMITTEE OF APPROPRIATIONS,
Washington, D.C., January 30, 1973.

Hon. JENNINGS RANDOLPH,
Chairman, Senate Committee on Public Works, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to congratulate you and the other members of the Committee on Public Works for so promptly reporting to the Senate S. 606, The Omnibus Rivers and Harbors Act of 1973, a bill identical to one which the President vetoed after Congress adjourned last year.

I am particularly pleased to see that the Committee has again included in the Rivers and Harbors Bill provisions establishing a shoreline erosion control demonstration program, and requiring that one of the demonstration projects be located on the Great Lakes. You will recall that last year, when the Rivers and Harbors Bill was before the Senate, I discussed with you the very serious shoreline erosion problems we have at the famous Indiana Dunes National Lakeshore along Lake Michigan. Most of this beautiful Lakeshore is located between a harbor in Michigan City and the Burns Harbor at Portage, Indiana. Because of the breakwater

adjacent to the port facilities at Michigan City, a tremendous shoreline erosion problem has struck the Lakeshore, causing perhaps irreparable damage to the shoreline and the dunes themselves. I asked you last year whether this was the kind of situation which would warrant a demonstration project under the Bill.

You graciously assured me that "under the demonstration projects we would have that situation studied. It has peculiar strength because it is on public property, and I think it is a type program in which a demonstration or pilot project can prove important, not only to that area but to helping solve problems in other areas of the country later."

I agreed with you then, Mr. Chairman, and I agree with you now. I hope that the same assurrances you offered last year are applicable again under S. 606. In view of the Lakeshore's unique ecological and recreational values, this kind of program is essential. I believe that the federal government should make every effort to stop the shoreline erosion at the Lakeshore, and I believe that this year's Rivers and Harbors Bill offers a good way to meet that responsibility.

With my very best personal regards.

Sincerely,

BIRCH BAYH,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., February 1, 1973.

Hon. BIRCH BAYH,
U.S. Senate,
Russell Building,
Washington, D.C.

DEAR BIRCH: Thank you so much for your letter endorsing the provisions of S. 606, the Flood Control Act of 1973, and emphasizing your particular interest in the section authorizing a shoreline erosion control demonstration program.

I feel as you do that this is one of the key features of the legislation and that the specific requirement for at least one of the pilot projects to be undertaken in the Great Lakes area is appropriate and necessary to serve the purposes and objectives of that section of the bill.

I well recall our discussion of last year about the scope and severity of the erosion problem at the Indiana Dunes National Lakeshore along Lake Michigan and I am in full accord now, as then, with your view that this location is particularly suited for a pilot study of this type.

You therefore have my assurance that I will recommend inclusion of the National Lakeshore area in the demonstration plan if the program is authorized under the legislation now before the Senate.

With official esteem and warm personal regards, I am

Truly,

JENNINGS RANDOLPH,
Chairman.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield me 1 minute?

Mr. RANDOLPH. I yield.

AUTHORIZATION FOR ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 16, Senate Resolution 53. This resolution has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 53) to authorize additional expenditures by the Committee on Rules and Administration for inquiries and investigations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that appropriate extracts from the committee report be printed in the RECORD, in explanation of the resolution.

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

CALENDAR NO. 16

Senate Resolution 53 would authorize the Committee on Rules and Administration, or any subcommittee thereof, from March 1, 1973, through February 28, 1974, to expend not to exceed $331,000 for inquiries and investigations.

The funds requested by the committee would be allocated to specific inquiries and to the procurement of the services of individual consultants or organizations thereof as follows:

Section 3 of the resolution would provide that not to exceed $125,000 would be available for a study or investigation of privileges and elections.

Section 4 of the resolution would provide that not to exceed $206,000 would be available for a study or investigation of computer services for the Senate, of which amount not to exceed $20,000 could be expended for the procurement of consulants.

During the second session of the 92d Congress, the committee was authorized by Senate Resolution 240, agreed to January 28, 1972, to expend not to exceed $327,000 for inquiries and investigations. Of that amount $150,000 was allocated for a study or investigation of privileges and elections, and $177,000 was authorized for a study or investigation of computer services for the Senate. The committee estimates that the unobligated balances under those authorizations as of February 28, 1973 (funds returnable to the Treasury), will be approximately $45,000 and $40,000, respectively.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 53) was agreed to, as follows:

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.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provisions of 15 United States Code 1024(a), the Speaker had appointed Mr. PATMAN, Mr. BOLLING, Mr. REUSS, Mrs. GRIFFITHS, Mr. MOORHEAD of Pennsylvania, Mr. CAREY of New York, Mr. WIDNALL, Mr. CONABLE, Mr. BROWN of Ohio, and Mr BLACKBURN as members of the Joint Economic Committee, on the part of the House.

QUORUM CALL

Mr. RANDOLPH. 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.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me 1 minute?

Mr. RANDOLPH. I yield.

EXTENSION OF THE COMMISSION ON HIGHWAY BEAUTIFICATION

Mr. ROBERT C. BYRD. Mr. President, with the approval of my distinguished senior colleague, Mr. RANDOLPH, and the matter having been cleared on the other side of the aisle, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 14, Senate Joint Resolution 42.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 42) to extend the life of the Commission on Highway Beautification established under section 123 of the Federal-Aid Highway Act of 1970.

Mr. RANDOLPH. Mr. President, I shall not speak at length. I wish to say that the Commission should have the oppor-

tunity to complete its work; then, we will have the chance to evaluate what has been done.

It is very appropriate that the Senator from West Virginia (Mr. ROBERT C. BYRD) arranges for us in the framework of other public works legislation to proceed with this matter. I am sure the other body will take prompt action.

I thank the Senator for yielding.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD appropriate extracts from the committee report in explanation of the resolution.

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

CALENDAR NO. 14

The Commission on Highway Beautification, established by Section 123 of the Federal-Aid Highway Act of 1970, was directed to study and make recommendations concerning implementation of the Highway Beautification Act of 1965 and to investigate methods of preserving and enhancing natural beauty along the nation's highways.

Although the authorizing legislation provided that the Commission should make a final report not later than one year after it was funded (August 1971), for various reasons the Commission did not become fully operational until December 1971. Following its organization, the Commission held public hearings throughout the country, and amassed considerable data and information about highway beautification.

The Commission recently prepared an interim report recommending certain statutory amendments and requesting an extension of time to enable it to complete a number of other investigations. Because of limited time and budget, the Commission stated it has not been able to devote sufficient attention to a number of important matters, such as funding of beautification programs, control of on-premise signs, and the need for improved landscaping and aesthetic developments. Furthermore, many problems related to the control of outdoor advertising are not yet sufficiently defined because regulatory legislation has been enacted by many States only in the last few months and is just beginning to be enforced in all States. While the Commission has gathered extensive data in many other matters, such as State and local sign control programs, needs more time to complete its studies and to prepare a comprehensive report.

The service which the Commission could render by examining these extensive and complex problems and by monitoring, evaluating and reporting on recent trends and experiences should be of substantial value to Congress. Accordingly, the Committee recommends that the date for the final report of the Commission on Highway Beautification be extended until December 31, 1973, and that an additional $250,000 be authorized for support of its activities.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 42) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (i) of section 123 of the Federal-Aid Highway Act of 1970 (84 Stat. 1727–28) is amended by striking out the first sentence and inserting the following in lieu thereof:

"(i) The Commission shall not later than December 31, 1973, submit to the President and the Congress its final report."

(b) Subsection (n) of section 123 of the Federal-Aid Highway Act of 1970 (84 Stat. 1727–28) is amended to read as follows:

"(n) There are hereby authorized to be appropriated such sums, but not more than $450,000, as may be necessary to carry out the provisions of this section and such moneys as may be appropriated shall be available to the Commission until expended."

FLOOD CONTROL ACT OF 1973

The Senate resumed 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.

Mr. RANDOLPH. 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.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. On whose time?

Mr. MANSFIELD. Both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RANDOLPH. 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. RANDOLPH. Mr. President, the senior Senator from New York (Mr. JAVITS) has been detained in work within the Foreign Relations Committee. We had hoped to have a colloquy on the floor, but, through assurances of his staff, I want to proceed. Then later, if he came before the rollcall, or at an appropriate time, if he wanted to add to what I had said, he could do it.

The Senator had a colloquy with me last year in reference to these matters. He has some concern about section 33. That is the part of the bill that provides for Federal participation in the cost of a project providing significant hurricane protection on publicly owned property, where there would be 70 percent of the total cost involved, exclusive of the land cost. The provision is the same in this measure as we had embodied in the conference report last year on S. 4018. The bill before us covers the matter in which the Senator from New York (Mr. JAVITS) has an interest. He would have asked, as was done in one or two cases here today, for a clarification. We went a little further in the conference report and we clarified the meaning of the section by including the words:

The conferees intend that where substantial protection of public property will result in incidental works on private property, the Federal share on such incidental work will be 70 percent, in accordance with provisions of this section.

It is my understanding that this is agreeable to the able Senator from New York (Mr. JAVITS). If there is need for further modification, that could be considered in the next few weeks when we will have the river basin authorization bill before us.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken out of 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. 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 wish to adopt the explanation just made by the Senator from West Virginia (Mr. RANDOLPH) regarding section 33 of this bill and the application of the 70-percent formula to the total project cost relating to hurricane protection and beach erosion. I am very grateful to the distinguished Senator and chairman for having made this explanation and for pointing out that the 70-percent formula will apply to the total project even though private property may be involved.

Mr. RANDOLPH. I appreciate the remarks of my colleague.

Mr. BELLMON. Mr. President, as one who recognizes the widespread public benefits resulting from flood control and water resource development, I have consistently supported the public works programs of the U.S. Government. My own State has benefited greatly from the construction of numerous multiple purpose reservoirs and the McClellan-Kerr Arkansas River Navigation System.

Without question, many of the projects included in the Flood Control Act of 1973 are equally justified and will produce significant public benefits. But I have serious reservations about the entire package of projects contained in this bill and I urge my colleagues to carefully consider their actions today.

In the first place, Mr. President, the bill contains projects on which no hearings have ever been held in the Senate, projects for which many Members have had no opportunity to give thoughtful consideration. Some of these projects were simply accepted from the House of Representatives rivers and harbors bill last year. Others were added to the bill by the Senate after completion of committee hearings, and together these additional projects will cost tens of millions of dollars. If these projects are important enough to be approved by the Senate, they certainly should be important enough to warrant a few additional days

of hearings so that informed decisions can be made.

This bill is identical to the conference committee version of the Rivers and Harbors-Flood Control Act of 1972 which was passed in the closing days of the last session. Subsequently, that measure was vetoed by the President. In his memorandum of disapproval, the President said the measure "contains projects never approved or recommended by the executive branch," as well as "a number of objectionable features such as authorizing ill-defined and potentially costly new programs."

The President went on to say that in his judgment many of the projects in the bill are justified and that he would recommend legislation to authorize their construction in this Congress.

The administration's bill containing these recommended projects has already been sent to Congress and introduced earlier this week. But no consideration has been given to that bill as an alternative to the bill we vote on today.

The major difference between the two bills is cost. The bill before us would cost $632 million, while the administration bill would cost only $382 million—a difference of $250 million.

In my view, Mr. President, at this time, the beginning of a new Congress, the Senate, which includes many new Members, should not be stampeded into voting upon legislation not thoroughly considered. It is almost certain that if we pass this bill it will again be vetoed. Even if Congress overrides the veto, the President will likely impound appropriated money for some of the projects he considers objectionable. By following this course of action, the Congress will further abrogate its responsibility and delay the construction of needed projects.

We must recognize that we have a President in the White House who is dedicated to a reduction in Federal outlays. It is my firm conviction the Congress should be cooperating in that endeavor rather than constantly challenging him to spend more.

As I said earlier, this bill contains many desirable and justifiable projects, but it also contains expensive, nonessential projects which can be delayed for some years without causing undue hardship.

One example is a project authorized by the bill for my own State—a perimeter road around Lake Texoma. This road is a desirable project since there has never been an adequate system of access or scenic roads at the lake since it was built in the mid-1930's. But construction of the perimeter road is not absolutely essential for the well being of this Nation at this particular time. It can well be postponed until a later time when demands on the Federal Treasury are not so great.

Only by delaying such costly, low priority projects can we hope to bring Federal spending down to acceptable levels.

For these reasons, Mr. President, I plan to vote against passage of the Flood Control Act of 1973, and would hope that the Public Works Committee will hold additional hearings and recommend to the Senate a thoroughly considered and hopefully less costly bill at an early date.

S. 606 REQUIRES FURTHER CONSIDERATION

Mr. PROXMIRE. Mr. President, I intend to vote against S. 606, the omnibus rivers and harbors bill. I think the bill contains a number of undesirable features, is far too costly in general, and should not be enacted without further consideration by the Senate Public Works Committee.

This bill was on the Senate floor last October. The conference report encompassed a total cost of $593 million. President Nixon vetoed that legislation on the grounds that the cost was excessive, and that its impact would be inflationary.

The bill before us today is identical to last year's conference report. Its cost is $593 million. At a time when the need for budgetary stringency is so great, it seems hard to justify an authorization at this level when other needs are going unmet. The committee should reconsider whether this bill could be sharply trimmed.

The bill also contains a number of projects that appear to be seriously deficient. On the Days Creek Dam on the South Umpqua River in Oregon, environmentalists have raised major questions about possible turbidity problems in the reservoir. The corps agrees that turbidity could be a serious problem and plans to do studies before undertaking construction. But why can we not postpone authorizing this $113 million project until the corps does its turbidity studies? This would seem to be a far more sensible way to proceed.

For the Clinchfield Reservoir on the Broad River in South and North Carolina, the corps has requested authorization of $60 million. However, 96 percent of the benefits from this project consist of water supply to be made available to Spartanburg County, S.C. An Interior Department study shows that this same area could be supplied from a lake at Fingerville, S.C., at a cost of $12.4 million. If this is the case, the remaining 4 percent of the benefits cost of $47 million. Clearly, something is out of line, and further study is needed.

On top of this, the North Carolina Department of Natural Resources and Economic Resources stated in its comment on the draft environmental impact statement on the Clinchfield project that—

> For the magnitude of the project proposed, this is the least adequate impact statement I have ever seen. It in no way meets the full disclosure requirements of NEPA, and it is a great surprise to see the Corps circulate such inadequate materials under the guise of environmental impact statements.

Mr. President, I believe the bill certainly needs further study, and I plan to vote against it.

Mr. BURDICK. Mr. President, the bill before us today is a much needed measure yet, it contains the smallest monetary provision of any flood control bill since 1948—only $593 million. In comparison with the $832 million bill that was enacted in 1970, I think that the bill before us represents a real effort on the part of the committee to hone down the number and increase the quality of the projects it contains.

Some of the Flood Control Act of 1973 will have far-reaching effects in our Nation's efforts to conserve resources. Section 64, for example, authorizes demonstration projects to test low-cost means of preventing and controlling shoreline erosion. Section 65, the streambank study provision will be of great benefit to States like my own. In North Dakota this section will eventually operate to reduce the siltation of the Missouri River, especially, and will conserve valuable streambanks for agricultural, recreational and scientific uses. In the 92d Congress I introduced legislation which was designed to protect certain critical erosion areas below the Garrison Dam in North Dakota. While S. 606 does not include these areas, I am hopeful that the study provision will lead to prompt action by the Corps of Engineers to develop environmentally sound means of helping these areas.

Another matter of real interest to me is the section dealing with small flood control projects. The bill before us recognizes the need to reduce potential damage from flooding in areas which have been especially prone to these ravages. S. 606 increases from $1 million to $2 million the individual project costs for small flood control works where a Presidential disaster has been declared within the last 5 years. In my own State, the city of Pembina is located in an area which has been declared a presidential disaster area due to floods in 1970, 1969, 1966, and several times earlier yet, under present small flood control authorization they cannot afford to begin work. If S. 606 is enacted, I am hopeful that much needed flood protection measures will soon be constructed to help these people.

Another provision of S. 606 needs mentioning and that is the section which places a moratorium on the Water Resource Council's proposals for evaluating water and related land resource projects until December 31, 1973. Soon after the draft guidelines were published I called upon the Senate Public Works Committee, the Senate Interior Committee, and the Senate Agriculture Committee to watch their further development closely. In view of the fact that the Water Resources Council is the creation of Congress, it is completely appropriate for us to study their recommendations. The provision in S. 606 will give the Public Works Committee time to study them before any final action is taken by the President.

Mr. President, I endorse S. 606 and urge its passage.

Mr. BUCKLEY. Mr. President, I wish to express my opposition to the passage of S. 606, the Flood Control Act of 1973. It is my view that this bill contains a number of important provisions that have never received proper study by the Senate or the Committee on Public Works. I believe these provisions warranted the very few days of additional study which would be required to enable the committee to hold hearings and provide the Senate with a more informed recommendation.

Let me explain my reasoning. As my colleagues on the committee have explained, S. 606 is identical to the con-

ference report version of S. 4018. That legislation, adopted during the closing days of the 92d Congress, was subsequently vetoed by the President.

The conference that produced the vetoed bill met on October 10, 1972, and filed its report 2 days later. The Senate immediately adopted the conference report by voice vote. I should note that the full, printed text of the report was not available in the CONGRESSIONAL RECORD, volume 118, part 27, page 35476, until the day following its adoption by the Senate.

Approximately half the 73 sections of S. 4018—and thus S. 606—were adopted intact from the House version. I think it is reasonable to say that the Senate had no real opportunity to evaluate the full potential impact of these provisions—and thus the legislation. Earlier this week the distinguished senior Senator from Tennessee (Mr. BAKER) introduced the administration proposal for similar legislation. This administration proposal, S. 603, contains many of the projects listed in section 1 of S. 606, but does not include most of the remaining sections of S. 606. The administration makes the point that many of the deleted programs would ultimately cost many billions of dollars. That point also concerns me, and that is why I believe there should have been hearings in the Senate on the full impact of this legislation.

As I stated earlier, approximately half of the provisions in the bill were taken from the House bill in conference, without benefit of Senate hearings. I ask unanimous consent that a list of such sections be printed at the conclusion of my remarks.

In addition, I ask unanimous consent that a brief sectional analysis, prepared by the Corps of Engineers, of those sections of S. 606 that it judges as unfavorable, unnecessary, or unwarranted, be included in the CONGRESSIONAL RECORD.

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

(See exhibit 1.)

Mr. BUCKLEY. Mr. President, I did not quibble over the inclusion last year of many of the House projects not present in the original Senate version, although their cost runs into many millions of dollars. This sort of necessary compromise is inherent in the conference process. But the Senate is not now racing to meet an adjournment deadline. We need not act with such haste, accepting without hearings many proposals that were adopted as a compromise.

And in view of the President's veto, it would have been wise, I believe, to hold hearings to obtain, with greater clarity, the reasons for the objections by the administration. Such a review, I believe, would place the Senate in a far stronger position if we are asked, at some later date, to vote to override a new Presidential veto of this bill.

It is said by the proponents of this bill that this is the least costly omnibus bill in a generation. While this appears to be true, I am concerned about the precedent and potential long term commitments implied in some of the new policies and open-ended features incorporated into S. 606. Such provisions, with longer-term implications, warrant at least some study, I believe.

To cite some examples adopted from the House bill, section 3 requires the Federal Government to pay future operating and maintenance costs for small boat harbors. While this may very well be a wise policy, I believe the Senate, through the hearing process, should evaluate more deeply its ramifications and ultimate cost before seeking to write such a policy into law.

In another section, the nose-under-the-tent approach seems to be adopted in connection with a very large project on the South Umpqua River in Oregon. While the full cost of the project is estimated at $113 million, the new bill underplays that fact by authorizing just $40 million for the overall project. Certainly that dam will not be stopped after $40 million is spent. Thus, full funding of that project alone would raise the bill's actual cost to the taxpayers by $73 million.

Other provisions would have the effect of authorizing projects such as those listed under the heading, Water Resources in Appalachia, that do not have the requisite final environmental impact statements.

Possibly my principal concern—and this is one which was highlighted in the President's veto message—centers on section 72 of S. 606. This section states:

SEC. 72. Policies Standards and Procedures in the Formulation, Evaluation, and Review of Plans for the Use and Development of Water and Related Land Resources approved by the President on May 15, 1962, and published by the Senate in Senate Document 97 on May 29, 1962, and the interest rate formula amendment issued by the Water Resources Council effective December 24, 1968, shall remain in effect until December 31, 1973, unless changed prior to that date by an Act of Congress.

In effect, this language places a moratorium on any changes in the process by which the costs and benefits of water resource projects are evaluated.

Such a complete moratorium could be wise, although the Senate has not previously had the opportunity to evaluate the need for such a moratorium, except through the adoption of the conference report last year. This important change deserves careful consideration in hearings, I believe.

The moratorium was mentioned briefly in the floor discussion by various conferees. I can find, however, only a mention of a moratorium as it affects interest rates, not the actual, and broader, moratorium affecting any changes in the standards for evaluation. The authority for Executive changes in evaluation procedures was created by the Congress when it established the Water Resources Council with passage of the Water Resources Planning Act of 1965—Public Law 89–80. That law, as I read it, expressly delegated to the Council the responsibility for drawing up principles and standards for water resource projects.

The law states that the Council "shall make recommendations to the President with respect to Federal policies and programs." The text of title 42, section 1962a–2 reads as follows:

The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission. (Pub. L. 89–80, Title I, Sec. 103, July 22, 1965, 79 Stat. 245.)"

Such delegation of responsibility may have been most unwise. Many of us were not in the Congress when it occurred. Nevertheless, I also believe the Senate should not arbitrarily retract such responsibility without having considered the consequences of such an action.

I believe it is the proper function of the Congress to establish such principles and standards for water resource projects, including the level of discount rates. It is my hope, as a member of the Subcommittee on Water Resources of the Committee on Public Works that we will explore later this year this issue in depth, including recommendations by the Council and the National Water Commission.

But at the same time, I do not believe that a total moratorium on any alterations in those principles and standards is necessary at this time, unless hearings demonstrate its value. Hearings, for example, might show that what the Senate really wants is a moratorium solely on the discount rate.

As a part of such a basic evaluation at a later date, I believe it is necessary to reexamine many of the effects of projects already approved to see if their design has been proper and effective. I am concerned about the fact that at least two projects in the bill involve effects that apparently were unexpected as a result of previous work carried out by the Corps of Engineers.

Two such examples are identified in the report on this bill. Both projects are included in S. 606, after being added in conference by the House. Without seeking to prejudge the need for these projects, I would like to quote two descriptions for the benefit of my colleagues.

Section 37 of this bill authorizes bank protection work in the vicinity of Newburgh, Ind. What is of particular interest is this statement on page 44 of the Senate report:

Serious bank erosion problems exist along the Ohio River downstream of the Newburgh Lock and Dam, which is presently under construction. There have been some questions raised as to the relationship of the project and bank erosion.

The work authorized by section 38 of this bill points out some similar concerns over the effectiveness of the planning work by the U.S. Army Corps of Engineers and its ultimate cost to the taxpayers. Again, on page 44, the Senate report states:

SECTION 38

This section modifies the project for flood control and improvement of the lower Mississippi River, to authorize the Secretary of the Army, acting through the Chief of En-

gineers, to undertake a demonstration pilot study program of bank stabilization on the delta and hill areas of the Yazoo River Basin, Mississippi.

Beginning near Memphis, Tennessee, on the Mississippi side of the Mississippi River there is a long line of foothills extending through the town of Charleston, where the steep hill area joins with the Mississippi River Valley Delta. The Corps of Engineers built four big dams: the Arkabutla, the Sardis, the Enid, and the Grenada. Through the use of these dams and reservoirs the streams below them, the Coldwater, Skuna, Tallahatchie and Yalobusha Rivers, are largely kept within their banks during the rainy seasons which come in the Fall and Spring, preventing flooding of the Delta area which lies below the dams.

Considerable hill area lies between the reservoirs and the Delta. Prior to construction of the reservoirs in the Winter and Spring seasons these rivers backed up into the creeks in the foothills area; the water gradually ran off and the creek bottoms in the ten to fifteen mile area adjacent to the Delta remained fertile, did not waste away and the streams kept within their normal banks.

During the rainy season the creeks which enter the rivers below the dams, having no flood water in such rivers, have nothing to retard the flow of local heavy rains. The result is that this water runs off at a rapid rate over the ten-mile steep area from Memphis to the Delta area instead of slowly as was the situation before the dams and reservoirs were built. The creek bottoms, the more fertile and best area of the territory, are being washed away, and the soil ends up in the four rivers and on down the Yazoo River into which all of them eventually flow, and all these streams are being filled up.

This section will permit the necessary study and demonstration measures to find effective means of controlling the erosion problem.

It appears to me that the Senate, in these two sections, may now be asking the public to pay a sum—as yet undetermined—to repair damages directly caused by previous Federal actions. Why were not these dangers foreseen? What impact will these damages have on the economics of the basic projects?

For these varied reasons, I believe it was unwise for the Senate to approve this bill at this time without hearings.

EXHIBIT 1

SECTIONS OF S. 606 ADOPTED FROM THE HOUSE VERSION IN CONFERENCE IN 1972

Section 1 (Water Resources in Appalachia).
Section 2.
Section 3.
Section 4.
Section 5.
Section 8.
Section 9.
Section 10.
Section 11.
Section 12.
Section 13.
Section 15.
Section 16.
Section 18.
Section 22.
Section 23.
Section 25.
Section 26.
Section 27.
Section 30.
Section 31.
Section 32.
Section 34(a).
Section 35.
Section 36.
Section 37.
Section 38.
Section 39.
Section 40.
Section 41.
Section 43.
Section 44.
Section 45.
Section 46.
Section 50.
Section 72.

SECTIONAL ANALYSIS OF THE VETOED BILL

I. UNAPPROVED PROJECTS

Sec. 1. Buena Vista, Virginia.
Sec. 1. Water Resources in Appalachia.
Sec. 1. Pattonsburg Lake, Missouri—power facilities.
Sec. 12. Ellicott Creek, New York.
Sec. 36. Sacramento River, Cal.—bank stabilization, Phase II.
Sec. 38. Yazoo River Basin bank stabilization, Mississippi.
Sec. 60. Pattonsburg Lake, Missouri—design of bridge.
Sec. 68. Pocatello, West Virginia (joint Corps-SCS project).

II. UNFAVORABLE PROGRAM INITIATIVES

Sec. 3. Federal assumption of O&M for small boat harbors.
Sec. 20. Relief on deadline for locals to sign statements of cooperation and agreements to share costs on projects; moves deadline from 1-1-72 to 1-1-74.
Sec. 23. Assistance to states in water planning.
Sec. 33. Set Federal share of cost of hurricane protection projects at 70%.
Sec. 37. Ohio River at Newburgh, Indiana.
Sec. 41. Anaheim Bay, California—review items of local cooperation.
Sec. 59. Cape Fear, N.C. & S.C.—use $2M of local funds to start project.
Sec. 64. Shoreline Erosion Control Demonstration Act.
Sec. 65. Streambank Erosion investigations and construction.
Sec. 66. Atchafalaya River and Bayous Chene, Boeuf, and Black, La.—cost-sharing
Sec. 72. Moratorium on standards set by Executive Branch.

III. UNCLEARED, UNSTUDIED ITEMS

Sec. 9. Surveys: East Two Rivers, Minn.; Alice, Texas; Buffalo River Basin, N.Y. (wastewater management); Miami River, Fla.; Port Las Mareas, P.R.; Corpus Christi Ship Channel, Texas; Saint Marys River, Michigan.
Sec. 11. Road substitutions—local cost and design standards.
Sec. 31. Kehoe Lake, Ky.—study of merits needed on acquisition of a natural area.
Sec. 34. Ohio River bank protection works.
Sec. 35. Scioto, Ohio.
Sec. 40. Santa Cruz Harbor, Cal.—review local cooperation requirements.
Sec. 44. Study total benefits and costs of water projects in Ohio River Basin.
Sec. 45. Missouri River bank stabilization below Gavins Point Dam.
Sec. 54. Wyonoochee Dam, Washington—fish mitigation.
Sec. 55. Libby Dam—Fish mitigation.
Sec. 56. Libby Dam—Wildlife mitigation.
Sec. 57. Libby Dam—Pay drainage districts.
Sec. 58. Libby Dam—Reimburse Boundary County.
Sec. 63. Presque Isle Peninsula, Pennsylvania.
Sec. 69. Guyandot River, West Virginia—snagging and clearing.

IV. SPECIAL RELIEF ITEMS

Sec. 4. North channel, Chicago River—raise allowance for snagging/clearing to $150,000 per year.
Sec. 8. McClellan-Kerr Arkansas River navigation system—alteration of municipal water supply facilities for Conway, Arkansas.
Sec. 13. St. Louis, Missouri—roads.
Sec. 14. Norfolk Reservoir, Arkansas—bridge and highway.
Sec. 15. Melvern and Pomona Lakes, Kansas—roads.
Sec. 16. Tuttle Creek, Kansas—roads.
Sec. 18. Andrew Jackson Policemen's Lodge, Tennessee—give title to land.
Sec. 19. J. P. Ward Foundries—reimburse for loss of railroad access.
Sec. 22. Mankota and North Mankota, Minn.—replace sewer.
Sec. 24. Pequonnock River, Conn.—sewer for nursing home.
Sec. 25. Rahway River, N.J.—utility relocation cost.
Sec. 30. Lake Texoma, Texas—roads.
Sec. 32. Lavon Reservoiir, Texas—roads.
Sec. 39. Auburn Reservoir, Cal.—roads.
Sec. 42. Yankton, S.D.—bank stabilization for Sacred Heart Hospital.
Sec. 43. San Luis Obispo Harbor, Cal.—study cost-sharing.
Sec. 46. Beaver Brook Dam, N.H.—cost-sharing.
Sec. 49. Mountrail County Park Commission, N.D.—give title to land.
Sec. 53. Wyonoochee Dam, Washington—extend repayment period for M&I.
Sec. 71. Big Sandy River, Ky. and W.Va.—O&M of non-Federal dam.

V. NO OBJECTION BUT NOT EXECUTIVE INITIATIVE

Sec. 7. Portion of Hudson River non-navigable.
Sec. 48. Approval to erect permanent structures in non-navigable area of Hudson River.
Sec. 51. Rename dam after James W. Trimble.
Sec. 52. Rename dam after James G. Fulton.
Sec. 62. Rename dam for Richard Russell.

VI. LEGISLATION NOT NECESSARY

Sec. 2. Manistee Harbor, Michigan—remove steamer Glen.
Sec. 5. Continued operation of San Francisco-Delta Model.
Sec. 6. "Hold and save free" clause clarification.
Sec. 26. Sec. of Army to study requirements under hold and save harmless provision.
Sec. 47. Cave Run Lake—halt road construction.
Sec. 70. Authority to build small flood control projects in disaster areas.

VII. ITEMS NOT THE CORPS' RESPONSIBILITY

Sec. 50. Community services covered under Sec. 252, Disaster Relief Act of 1971.
Sec. 61. Big South Fork National Recreation Area.
Sec. 67. Keokuk, Iowa—bridge tolls.

Mr. BROCK. Mr. President, there are, within this bill, several worthwhile projects which I can unreservedly support. I am, however, struck by the cogency of the minority views expressed by the Senator from New York (Mr. BUCKLEY), a member of the Committee on Public Works.

I am particularly concerned that we do not have the benefit of adequate information on the environmental impact of several of these projects. I question, too, whether we have sufficiently considered the land use aspects which are inherent in structural and channelization projects, which form the bulk of the projects covered in this bill. Far too often inadequately considered projects have caused irreparable environmental and ecological damages.

It is important to remember, also, that the administration has prepared legislation which would provide authorization for many of these projects, for ex-

ample the West Tennessee Tributaries project in my own State which I strongly support.

I am hopeful that we will be able to give adequate study, through the Public Works and Interior Committees, to that proposal, so that we can be confident of the desirability of the various projects which will be included in it.

Regretfully, that depth of analysis has not accompanied the measure which is now before us. The mistake of authorizing a bad project is a very costly one, in economic, environmental, and social terms, and for that reason I am compelled to vote nay on this bill.

Mr. HATFIELD. Mr. President, I wish to compliment the distinguished chairman, Mr. RANDOLPH, and the distinguished ranking Republican, Mr. BAKER, for acting with such dispatch on this legislation which is of considerable economic importance to many areas of the country. There are so many demands as a new Congress begins.

We are sorry that the very distinguished Senator from Kentucky, Mr. Cooper, is no longer with us here, but his very able successor, the Senator from Tennessee (Mr. BAKER), carries on the careful stewardship of public works, so important to the wise development of our resources.

I wish to turn for a moment to a particular part of this legislation—authorization of the Days Creek project on the South Umpqua River in Oregon. In the last weeks of the 92d Congress, I worked closely with Congressman DELLENBACK, members of the executive branch, and the Senate Public Works Committee to finalize the Days Creek proposal and facilitate its inclusion in the omnibus bill. That legislation, the same bill that has been brought to the Senate floor this week, and which we are debating today, was vetoed by the President; but at the time of its floor consideration I outlined to my colleagues what Days Creek means to the people of the South Umpqua River Basin. I note today that the committee's report accompanying this legislation contains an excellent description of this Oregon project, and I would ask unanimous consent to have this page from the report appear following my remarks, together with my statement of September 27, 1972, on the floor of the Senate at the occasion of the last passage of the authorization bill.

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

UMPQUA RIVER BASIN—DAYS CREEK LAKE

Location.—The Days Creek site is located on South Umpqua River, approximately 1 mile south of Days Creek, Oregon, in southeast Douglas County.

Authority.—River and Harbor Act of 1938 and U.S. Senate Committee on Commerce Resolution of November 18, 1937.

Existing Project.—Existing Federal flood control development by the Corps of Engineers in the Umpqua River basin includes revetment, levees, and channel clearing at various localities throughout the basin. A navigation project provides about 14 miles of channels, entrance jetties at the mouth of the Umpqua River, and mooring and turning basins. The lack of adequate groundwater supplies has caused many of the communities, industries and irrigators to develop water supply sources on the basin's stream. Eight hydropower generating facilities of the Pacific Power and Light Company are on North Umpqua River.

Problems.—The water resource needs of the Umpqua River basin include flood control; storage and controlled release of water for irrigation, water supply, fishery enhancement, and water quality control; and provisions for increased recreational opportunities. During the study, it became evident that development of water resources on South Umpqua River is an essential initial step toward solution of the Umpqua Basin's overall water resource problems. Flooding is an especially severe problem along South Umpqua River because most of the available level land in the basin lies adjacent to the streams in the South Umpqua drainage. Surface water is the only potential source for additional municipal, industrial and irrigation water supplies, as the general lack of underground water precludes the use of wells for these supplies. Under present conditions, however, natural flows are insufficient, in most water short years, to satisfy the existing water rights. The fishery resource suffers from depleted summer flows, poor water quality, and high water temperature. The recreational use of the existing facilities in the basin receive about double the statewide average with many of the users coming from out of state. Additional recreation facilities are required to satisfy the estimated future demand. The South Umpqua receives the major portion of the Umpqua Basin's waterborne waste load. During periods of low flow the river cannot assimilate the load and becomes aesthetically unappealing and unsafe for water-contact usage due to algal growth, bacterial contamination, floating solids, and high temperature. Such periods of poor water quality cause municipal and industrial water systems to incur higher costs for chemical treatment.

Recommended Project.—A multiple-purpose dam and lake project would be constructed on South Umpqua River, about 1 mile upstream from the town of Days Creek, Oregon. The project would be operated to provide for flood control in South Umpqua and Umpqua Rivers, fishery enhancement, irrigation water supply, recreation, water quality control, and water supply for future municipal and industrial use. A multi-level intake on the outlet works would permit selective withdrawal of water from the reservoir in the interest of managing water quality, both in the lake and downstream.

Estimated cost (price level of March 1971)

Federal	[1] $113,000,000
Non-Federal	
Total	113,000,000

[1] Includes $2,047,000 allocated to municipal and industrial water supply, $2,415,000 allocated to irrigation, and $3,655,000 allocated to recreation and fishery enhancement reimbursable by local interests. (Note: Bill authorizes $40,000,000 for partial start.)

PROJECT ECONOMICS

[Interest rate of 5⅜ percent; in thousands of dollars]

	Federal	Non-Federal	Total
Annual charges:			
Interest and amortization	6,523	.....	6,532
Operation, maintenance, and replacement	[1] 466	[2] 368	834
Total	6,989	368	7,357

[1] Includes $10,400 and $8,800 to be repaid by local interests for irrigation and water supply, respectively.
[2] For recreation and fishery facilities which would be non-Federal cost.

Annual benefits

Flood damage reduction	$7,322,000
Water supply	185,000
Irrigation	202,000
Water quality control	250,000
Recreation	1,333,000
Fishery enhancement	773,000
Area redevelopment	856,000
Total	10,921,000

Benefit-Cost Ratio.—1.5.

PUBLIC WORKS ON RIVERS AND HARBORS

The Senate continued with the consideration of the bill (S. 4018) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Flood control projects

Project:	*Federal cost of new work*
Potomac River Basin, Md. & Va.	$65,505,000
Santee River Basin, N.C.-S.C.	58,565,000
Middle Atlantic Coastal Area, Va.	17,010,000
James River Basin, Bueno Vista, Va.	11,539,000
Roaring River, North Carolina	10,758,000
Pocatalico River, W. Va.	7,545,400
Salt River Basin, Campground, Ky.	$50,800,000
Licking River, Falmouth, Ky.	6,300,000
West Tennessee Tributaries, Tenn.	6,600,000
Perry County Drainage Districts No. 1, 2, & 3, Mo.	2,698,000
Cache River Basin, Ark.	5,232,000
Pascagoula River, Miss.	32,410,000
Pearl River, Miss.	38,146,000
Mississippi River at Praire du Chien, Wis.	2,300,000
Des Moines River	76,000
Spring River, Mo.	14,600,000
Grand River Basin, Mo.	28,620,000
Great Lakes, Point Place, Ohio	960,000
Beals Creek, Tex.	2,526,000
Peyton Creek, Tex.	8,490,000
Blanco River, Tex.	42,271,000
South Umpqua River, Oreg.	113,000,000

Mr. HATFIELD. Mr. President, before turning to a particular project of special interest to me, I want to call the attention to my colleagues to the wise stewardship exercised over this bill by the distinguished chairman, Mr. RANDOLPH, and the distinguished ranking Republican, Mr. COOPER. These two gentlemen have a tremendous task in overseeing the broad range of proposals before their committee. It is to their credit that they are able to send such proposals to the Senate floor with the needed background and justification.

We will miss the leadership given on this side of the aisle by Mr. COOPER when he retires at the end of this Congress, but I think I speak for the membership on this side of the aisle when I recognize the degree of nonpartisanship that is exercised by the chairman (Mr. RANDOLPH).

Mr. President, I want to call special attention to a project included in the omnibus rivers and harbors bill now before us, bill S. 4018. I refer to the flood control section, and a project covered on pages 23 and 24 of the bill—the South Umpqua project, or the Days Creek project, as it is known to many Oregonians.

The people of the South Umpqua River Basin are plagued with extremes of streamflows. Devastating floods occur with oppressive frequency—there have been five in the past 12 years. Each summer, on the other hand, streamflows become lower than in almost any other major stream in western Oregon. The proposed Days Creek Dam and Reservoir would meet the problems associated with these extremes, to the great benefit of the people of Douglas County.

Floodflows of the South Umpqua River

and its tributaries cause damages throughout almost the entire drainage area. They also contribute to the damages caused by the Umpqua River, into which the South Umpqua flows. The problem along the South Umpqua is especially severe because most of the available level land in the basin lies adjacent to the streams of this drainage area. Most developments and transportation routes have been located in the flood plain. During major floods, water covers entire flatland expenses, inundating towns and interrupting transportation. Often the South Umpqua rises to flood stage before emergency action can be taken, due to the impervious soils of the drainage area which do not readily absorb storm runoff. Floods on the South Umpqua are thus more severe and rise faster than on most other streams of western Oregon. Damages from the 1964 and 1971 floods downstream from the Days Creek site have totaled $20 million; but at the projected 1985 development of the region floods of the 1964 and 1971 varieties would cause more than $43 million total damages—at 1971 prices.

This region of Oregon has hot, dry summers—very little rain falls and extended droughts occur. Less than 5 percent of the annual precipitation occurs from July through September, during the last part of the growing season. The area needs a reliable source of irrigation water, but under present conditions the natural flows in the South Umpqua are insufficient, in most water-short years, to satisfy existing water rights. Holders of these rights have been forced to abstain from exercising them when stream depletion has been threatened in recent summers.

Most of the municipal and industrial water supply in the basin is obtained from surface water sources, and future development must expand these sources since there is a general lack of underground water. In addition to this problem of water supply, the South Umpqua River receives the major portion of the basin's waterborne waste load. During low summer flows, the river has not been able to assimilate that load, causing a serious water quality problem. In several areas the stream becomes unsafe for water-contact usage because of profuse algal growth, bacterial contamination, and floating solids. These same areas are the vicinity of major municipal and industrial water supply systems.

The depleted summer flows, the poor water quality, and high water temperature have wreaked havoc with the fishery resource of the South Umpqua River. At present there remains only a small fraction of the fish population that local residents state to have existed in earlier days. Augmentation of summer flow, as would be provided by a storage reservoir at Days Creek, would alleviate the three conditions I have just outlined. Present-day summer flows of the South Umpqua at Brockway have been observed to drop as low as 36 cubic feet per second—bankfull is 45,000 cubic feet per second—with a water temperature of 87 degrees. Consider what Days Creek will do in this regard: It will decrease the average August temperature of the river below the dam by 15 degrees—from 70 to 55 degrees—by increasing the average flow from 70 to 950 cubic feet per second.

The movement to save the South Umpqua River from collapse of its resource capabilities and to spare the people of this basin from the frequent destructive floods began with a public meeting in Roseburg, Oreg., in 1956. Since that time, the development of this proposal has been a model of cooperation between the Federal Government and the local people. Local desire has never been in doubt, from 1956 when 100 people showed up at the Roseburg meeting to state the need for control of this resource, to last year when 1,200 people demanded an immediate solution to the problems of the South Umpqua River at the final public meetings on the project.

I have been impressed with the depth and breadth of the Corps of Engineers' consideration of the problems and possible solutions related to the water resource of the South Umpqua. Their treatment of the environmental aspects of Days Creek and its alternatives has likewise been admirably complete. The result of 15 years of diligent effort is this excellent proposal for a project that is badly needed.

I thank the committee for including this proposal in the pending bill.

Mr. TUNNEY. Mr. President, I would like to take this opportunity to speak briefly in support of the pending rivers and harbors bill. As you know, the respective committees of both Houses of the Congress labored arduously last session on this legislation only to see it vetoed by the President in a stroke of false economy. The pending measure is the identical version which won the support of both committees and both Houses, and I strongly urge the Senate to support it once again.

The rivers and harbors bill will supply badly needed funds for a variety of flood control and navigation studies and construction. The bill authorizes the operation and maintenance of the San Francisco Bay-Delta Model in Sausalito for the purpose of testing proposals affecting the environmental quality of the region.

It will provide $10 million to begin the second phase of the bank erosion control works and setback levees along the Sacramento River.

The bill authorizes studies of the requirements of local cooperation for the Santa Cruz Harbor project, the Anaheim Bay project at Seal Beach, and the navigation project at Port San Luis in the San Luis Obispo Harbor.

Also included in this legislation is a section which would amend the Disaster Relief Act of 1970 to permit Federal reimbursement of the Los Angeles Department of Water and Power for the excessive costs it incurred in purchasing emergency water and power after the February 8 and 9, 1971, earthquake. Because the normal source of water and power were interrupted by damage to existing facilities, it became necessary for the city to purchase replacement water and power from other sources at higher prices. These costs came to $13.9 million—$12,848,000 for electricity and $1,070,000 for water—and the city of Los Angeles was advised by the Office of Emergency Preparedness that the excessive costs were not reimbursable under the 1970 Disaster Relief Act.

For these reasons, I strongly urge the Senate to take favorable action on the pending legislation.

THE TAMAQUA FLOOD CONTROL PROJECT

Mr. SCHWEIKER. Mr. President, last fall I offered an amendment to the omnibus rivers and harbors bill to authorize funding for a small but badly needed flood control project in the borough of Tamaqua in Pennsylvania. The Public Works Committee had had an opportunity to look into this matter earlier, and I was gratified when the distinguished chairman of the committee agreed to accept my amendment.

The borough of Tamaqua in Pennsylvania has suffered recurring floods and extensive damage as a result of the fact that the Wabash Creek runs through a culvert under the borough.

The solution is simple. The Corps of Engineers has proposed construction of a bypass tunnel to divert the Wabash Creek into the Little Schuylkill River near the southern edge of town.

The final report of the Secretary of the Army on this proposal has been submitted as has the environmental impact statement. Both have received favorable consideration by all Federal and State agencies involved.

Although the bill was subsequently modified in conference, Tamaqua was nevertheless specifically mentioned as a priority project. As a result, we were all disappointed when the bill was vetoed.

I am pleased to see that the current bill, S. 606, contains the same provision, and I hope we can finally succeed in gaining authority for this badly needed project.

PRESQUE ISLE PENINSULA, ERIE, PA.

Mr. President, I am indeed pleased that the Flood Control Act of 1973 contains authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa.

The purpose of this legislation is to extend the authority for Federal participation in the Presque Isle cooperative beach erosion control project for a period of 5 years. This legislation also authorizes $3,500,000 to support the work necessary on this important project.

Federal participation in the Presque Beach erosion control project was originally authorized by the 1960 River and Harbor Act, Public Law 86–645, for a period of 10 years. That authority existed from 1961 to May 1971, when it expired.

The Senate adopted an amendment identical to the provisions contained in this bill during consideration of the River and Harbor Act last fall. Regrettably, however, the Schweiker amendment was included in the October 27 veto of this legislation.

This new legislation will give us the opportunity to start to work on providing the kind of protection which is so desperately needed to protect Presque Isle State Park and its beaches.

Mr. President, I want to take this opportunity to thank personally the members of the Public Works Committee for including these provisions in the Flood Control Act of 1973. In particular, I want to express my appreciation to the distinguished chairman of the committee, JENNINGS RANDOLPH, and the distinguished ranking minority member, HOWARD BAKER, JR. This means a great deal to the 4 million people who enjoy this area annually. Presque Isle State Park is not only a statewide resource for Pennsylvania, but is also used and enjoyed by many people from around the country who take advantage of the wonderful recreational opportunities available there. Passage of this legislation amounts to a significant step forward in our efforts to save this beautiful area.

Mr. RANDOLPH. Mr. President, the bill on which we are about to vote enables us to proceed with water resources development and conservation projects which will benefit the people of the

United States. The Committee on Public Works approached this legislation early in the 93d Congress, considering it carefully, but mindful of the need for action. This bill was expedited by the committee for Senate consideration with the full cooperation of the minority members under the leadership of Senator BAKER. The other members of the majority, Senators MUSKIE, MONTOYA, GRAVEL, BENTSEN, BURDICK, CLARK, and BIDEN, and the other members of the minority, Senators BUCKLEY, STAFFORD, SCOTT of Virginia, MCCLURE, and DOMENICI, all were diligent in their attention to this legislation.

To consider and report legislation of this importance so early in the session, we had the able support of the staff of the Committee on Public Works. Those staff members assigned to the Subcommittee on Water Resources, Wesley Hayden, and Ann Garrabrant, in a short period of time assembled and made available to the committee the large amount of information necessary to action on a bill of this type. Valuable contributions also were made by other staff members, M. Barry Meyer, chief clerk and chief counsel; Bailey Guard, minority clerk; John W. Yago, Phillip T. Cummings, Harold Brayman, Richard Herod, Steve Swain, Polly Medlin, Birdie Kyle, Ann Brown, Jan Fox, and Barbara Bjornson.

Mr. President, the Senator from Delaware (Mr. BIDEN) is necessarily absent from the Senate today. He has informed me, however, that had he been present, he would vote for the bill before us.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on third reading.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. RANDOLPH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Tennessee yield back the remainder of his time?

Mr. BAKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on final passage of the bill, as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Maine (Mr. HATHAWAY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Missouri (Mr. SYMINGTON), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) 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 family.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. HATHAWAY), the Senator from Illinois (Mr. STEVENSON), the Senator from Indiana (Mr. HARTKE), and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Kentucky (Mr. COOK) are necessarily absent.

The Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

If present and voting, the Senator from Kentucky (Mr. COOK) would vote "yea."

The result was announced—yeas 68, nays 14, as follows:

[No. 6 Leg.]

YEAS—68

Abourezk	Fong	Mondale
Aiken	Fulbright	Montoya
Allen	Hart	Moss
Baker	Haskell	Muskie
Beall	Hatfield	Nunn
Bentsen	Helms	Packwood
Bible	Hollings	Pastore
Brooke	Hruska	Pearson
Burdick	Huddleston	Pell
Byrd, Harry F., Jr.	Hughes	Percy
Byrd, Robert C.	Humphrey	Randolph
Cannon	Inouye	Ribicoff
Case	Jackson	Schweiker
Chiles	Javits	Scott, Pa.
Church	Johnston	Scott, Va.
Clark	Kennedy	Sparkman
Curtis	Long	Stevens
Dole	Mansfield	Taft
Domenici	McClellan	Talmadge
Dominick	McClure	Thurmond
Eastland	McGovern	Weicker
Ervin	McIntyre	Williams
	Metcalf	Young

NAYS—14

Bartlett	Fannin	Nelson
Bellmon	Goldwater	Proxmire
Bennett	Griffin	Roth
Brock	Gurney	Tower
Cotton	Hansen	

NOT VOTING—18

Bayh	Gravel	Saxbe
Biden	Hartke	Stafford
Buckley	Hathaway	Stennis
Cook	Magnuson	Stevenson
Cranston	Mathias	Symington
Eagleton	McGee	Tunney

So the bill (S. 606) was passed, as follows:

S. 606

An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this Act. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

MIDDLE ATLANTIC COASTAL AREA

The project for hurricane-flood protection at Virginia Beach, Virginia, authorized by the River and Harbor Acts approved September 3, 1954, and October 23, 1962, as amended and modified, is hereby further modified and expanded substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–365, at an estimated cost of $17,010,000.

JAMES RIVER BASIN

The project for flood protection for the city of Buena Vista on the Maury River, Virginia, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated December 11, 1972, at an estimated cost of $11,539,000, except that no funds shall be appropriated for this project until it is approved by the Secretary of the Army and the President.

SALT RIVER BASIN

The project for Camp Ground Lake on Beech Fork in the Salt River Basin, Kentucky, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–374, at an estimated cost of $50,800,000.

WATER RESOURCES IN APPALACHIA

The plan for flood protection, navigation, and other purposes in Appalachia is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources except that the project for Royal Glen Reservoir, South Branch, West Virginia, is not authorized, and that the Secretary of the Army, acting through the Chief of Engineers, shall modify the project for Whiteoak Dam and Reservoir on Whiteoak Creek, Ohio, Ohio River Basin, to conform substantially to the physical works of plan A in the Report for Development of Water Resources in Appalachia. Office of Appalachia Studies Corps of Engineers, November, 1969, part III, chapter 14. Not to exceed $50,000,000 is authorized for initiation and partial accomplishment of the plan.

PASCAGOULA RIVER BASIN

The project for flood protection and other purposes on Bowie Creek, Mississippi, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–359, at an estimated cost of $32,410,000.

PEARL RIVER BASIN

The project for flood control and other purposes on the Pearl River, Mississippi, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–282, at an estimated cost of $38,146,000.

GULF COASTAL AREA

The project for flood control and other purposes on the Blanco River in the Edwards Underground Reservoir Area, at Clopton Crossing, Guadalupe River Basin, Texas, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–364, at an estimated cost of $42,271,000.

SPRING RIVER BASIN

The project for flood control and other purposes on Center Creek near Joplin, Missouri, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–361, at an estimated cost of $14,600,000.

GRAND RIVER BASIN

The project for flood protection on the Grand River and tributaries, Missouri and Iowa, authorized by the Flood Control Act of 1965 is hereby modified to authorize and

direct the Chief of Engineers to immediately proceed with the engineeering and design of the Pattonsburg Lake project as presently authorized and to include provisions necessary so as not to preclude the subsequent addition of a complete power installation provided that prior to initiation of construction the Chief of Engineers would submit to Congress a report on the scale and scope of the project which best meets the needs of the area for further action by Congress as appropriate.

UMPQUA RIVER BASIN

The project for Days Creek Dam, on the South Umpqua River, Oregon, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–371, except that not to exceed $40,000,000 is authorized for initiation and partial accomplishment of such project.

LOWER MISSISSIPPI RIVER

The West Tennessee tributaries feature, Mississippi River and Tributaries project (Obion and Forked Deer Rivers), Tennessee, authorized by the Flood Control Acts approved June 30, 1948, and November 7, 1966, as amended and modified, is hereby further amended substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 92–367, at an estimated cost of $6,600,000.

The Cache River Basin Feature, Mississippi River and Tributaries project, Arkansas, authorized by the Flood Control Act approved October 27, 1965, is hereby modified and expanded to provide for acquisition by fee or by environmental easement of not less than 70,000 acres for mitigation lands for fish and wildlife management purposes at an estimated cost of $5,232,000. Local interests shall contribute 50 per centum of any costs incurred in excess of $4,740,000 in acquiring such property rights. An environmental easement shall prevent clearing of the subject land for commercial agricultural purposes or any other purpose inconsistent with wildlife habitat but shall allow any landowner to manage the subject lands to provide a perpetual, regularly harvested hardwood forest, which may be harvested in such a manner as to provide food and habitat for a variety of wildlife. No action may be initiated for any other taking of prospective mitigation lands until an offer has been made to the landowner thereof to take an environmental easement, except that no less than 30,000 acres shall be open for public access. If any landowner commences the clearing of prospective mitigation land, condemnation proceedings may be initiated at any time after an offer to take an environmental easement has been made but not accepted. No more than $25 per acre shall be paid for environmental easements. Easement-taking offers shall allow the landowner the choice of keeping access subject to private control or allowing public access. The price paid for easements not allowing public access shall take account of the value of hunting and fishing rights not included in the taking and be reduced accordingly.

SEC. 2. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to remove from Manistee Harbor, Michigan, the sunken steamer Glen.

SEC. 3. (a) The costs of operation and maintenance of the general navigation features of small boat harbor projects shall be borne by the United States.

(b) The provisions of this section shall apply to any such project authorized under the authority of this Act, section 201 of the Flood Control Act of 1965, or section 107 of the River and Harbor Act of 1960; and to each project which heretofore was authorized in accordance with the policy set forth in this section, and to any such project hereafter recommended for authorization.

SEC. 4. (a) Section 116(a) of the River and Harbor Act of 1970 (Public Law 91–611) is amended by inserting before the period the following: ", and thereafter to maintain such channel free of such trees, roots, debris, and objects".

(b) Section 116(c) of the River and Harbor Act of 1970 (Public Law 91–611) is amended by inserting before the period the following: "to clear the channel, and not to exceed $150,000 for each fiscal year thereafter to maintain such channel".

SEC. 5. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the San Francisco Bay-Delta Model in Sausalito, California, for the purpose of testing proposals affecting the environmental quality of the region, including, but not limited to, salinity intrusion dispersion of pollutants, water quality, improvements for navigation, dredging, bay fill, physical structures, and other shoreline changes which might affect the regimen of the bay-delta water.

SEC. 6. The requirement in any water resources development project under the jurisdiction of the Secretary of the Army, that non-Federal interests hold and save the United States free from damages due to the construction, operation, and maintenance of the project, does not include damages due to the faults or negligence of the United States or its contractors.

SEC. 7. Section 113 of the River and Harbor Act of 1968 (82 Stat. 731, 736) is hereby amended to read as follows:

"SEC. 113. Those portions of the East and Hudson Rivers in New York County, State of New York, lying shoreward of a line within the United States pierhead line as it exists on the date of enactment of this Act, and bounded on the north by the north side of Spring Street extended westerly and the south side of Rutgers slip, extended eastwardly, are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States. This declaration shall apply only to portable waters of the United States within the bulkheaded and filled, or are occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway. Local interests shall reimburse the Federal Government for any engineering costs incurred under this section."

SEC. 8. The McClellan-Kerr Arkansas River navigation system, authorized by the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1215), as amended and supplemented, is hereby further modified to include alteration at Federal expense of the municipal water supply facilities of the city of Conway, Arkansas, by the construction of water supply impoundment facilities at a location outside the flat flood plain of Cadron Creek, together with interconnecting pipeline and other appurtenant work, so that the water supply capacity of the resultant municipal facilities is approximately equivalent to that existing prior to construction of the navigation system.

SEC. 9. (a) The Secretary of the Army is hereby authorized and directed to cause surveys to be made at the following locations for flood control and allied purposes, and subject to all applicable provisions of section 217 of the Flood Control Act of 1970 (Public Law 91–611):

East Two Rivers between Tower, Minnesota, and Vermilion Lake.

Alice, Texas.

Buffalo River Basin, New York (wastewater management study).

(b) The Secretary of the Army is hereby authorized and directed to cause surveys to be made at the following locations and subject to all applicable provisions of section 110 of the River and Harbor Act of 1950:

Miami River, Florida, with a view to determining the feasibility and advisability of dredging the river in the interest of water quality.

Port Las Mareas, Puerto Rico, with a view to determining the feasibility and advisability of assumption of maintenance of the project by the United States.

Corpus Christi Ship Channel, Texas, with particular reference to providing increased depths and widths in the entrance channels from the Gulf of Mexico to a deeper draft inshore port in the vicinity of Harbor Island, Texas.

Saint Marys River at, and in the vicinity of, Sault Sainte Marie, Michigan, with a view to determining the advisability of developing a deep draft navigation harbor and international port.

SEC. 10. (a) As soon as practicable after the date of enactment of this section and at least once each year thereafter, the Secretary of the Army, acting through the Chief of Engineers, shall review and submit to Congress a list of those authorized projects for works of improvement of rivers and harbors and other waterways for navigation, beach erosion, flood control, and other purposes which have been authorized for a period of at least eight years and which he determines, after appropriate review, should no longer be authorized. Each project so listed shall be accompanied by the recommendation of the Chief of Engineers together with his reasons for such recommendation. Prior to the submission of such list to the Congress, the Secretary of the Army, acting through the Chief of Engineers, shall obtain the views of interested Federal departments, agencies, and instrumentalities, and of the Governor of each State wherein such project would be located, which views shall be furnished within sixty days after being requested by the Secretary and which shall accompany the list submitted to Congress.

(b) Such list shall be delivered to both Houses on the same day and to each House while it is in session. A project on such list shall not be authorized at the end of the first period of one hundred and eighty calendar days of continuous session of Congress after the date such list is delivered to it unless between the date of delivery and the end of such one hundred and eighty-day period, either the Committee on Public Works of the House of Representatives or the Committee on Public Works of the Senate adopts a resolution stating that such project shall continue to be an authorized project. For the purposes of this section continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one hundred and eighty-day period. The provisions of this section shall not apply to any project contained in a list of projects submitted to the Congress within one hundred and eighty days preceding the date of adjournment sine die of any session of Congress.

(c) Nothing in this section shall be construed so as to preclude the Secretary from withdrawing any project or projects from such list at any time prior to the final day of the period provided for in subsection (b).

(d) This section shall not be applicable to any project which has been included in a resolution adopted pursuant to subsection (b).

SEC. 11. Section 207(c) of the Flood Control Act of 1960 (33 U.S.C. 701r-1(c)) is hereby amended to read as follows:

"(c) For water resources projects to be constructed in the future, when the taking by the Federal Government of an existing public road necessitates replacement, the substitute provided will, as nearly as practicable, serve in the same manner and reasonably as well as the existing road. The head of the agency concerned is authorized to construct such substitute roads to the design standards which the State or owning political division would use in constructing a new road under similar conditions of geography and under similar traffic loads (present and projected). In any case where a State or political subdivision thereof requests that such a substitute road be constructed to a higher standard than that provided for in the preceding provisions of this subsection, and pays, prior to commencement of such construction, the additional costs involved due to such higher standard, such agency head is authorized to construct such road to such higher standard. Federal costs under the provisions of this subsection shall be part of the nonreimbursable project costs."

SEC. 12. The project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, for flood protection and other purposes as authorized by the Flood Control Act of 1970, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake the minor channel improvements, or portions thereof, recommended by the Chief of Engineers in his report dated November 25, 1970, independently of the investigation of alternative methods called for by such Act, such work to be subject to the items of local cooperation required for similar projects and such work to be limited to areas downstream from Maple Road in the town of Amherst, New York, and such other areas as such Secretary may deem necessary. Such improvements shall be for interim and remedial type protection and shall not be in conflict with any alternative plan for Sandridge Dam.

SEC. 13. The project for flood protection at St. Louis, Missouri, authorized by the Act of August 9, 1955 (69 Stat. 540), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to reconstruct the existing service and access roads along the line of protection so as to adequately carry present and anticipated traffic loads, at an estimated cost of $1,300,000. The conditions of local cooperation recommended by the Chief of Engineers in Senate Document Numbered 57, Eighty-fourth Congress, shall be applicable to the reconstructed access roads.

SEC. 14. (a) The comprehensive plan for flood control and other purposes in the White River Basin, as authorized by the Act of June 28, 1938 (52 Stat. 1215), and as modified and amended by subsequent Acts, is further modified to provide for a free highway bridge built to modern standards over the Norfolk Reservoir at an appropriate location in the area where United States Highway 62 and Arkansas State Highway 101 were inundated as a result of the construction of the Norfolk Dam and Reservoir. Such bridge shall be constructed by the Chief of Engineers in accordance with such plans as are determined to be satisfactory by the Secretary of the Army to provide adequate crossing facilities. Prior to construction the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests as determined by him, which shall provide that after construction such non-Federal interests shall own, operate, and maintain such bridges and approach facilities free to the public.

(b) The cost of constructing such bridge shall be borne by the United States except that the State of Arkansas shall, upon completion of such bridge, reimburse the United States the sum of $1,342,000 plus interest for the period from May 29, 1943, to the date of the enactment of this Act. Such interest shall be computed at a rate determined by the Secretary of the Treasury to be equal to the average annual rate on all interest-bearing obligation of the United States forming a part of the public debt on May 29, 1943, and adjusted to the nearest one-eighth of 1 per centum.

SEC. 15. The projects for Melvern Lake and Pomona Lake, Kansas, authorized as units of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved September 3, 1954, are hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to improve surface roads in the vicinity of such projects which he determines to be necessary for appropriate utilization of such projects. There is authorized to be appropriated to the Secretary not to exceed $500,000 to carry out this section.

SEC. 16. The project for Tuttle Creek Reservoir, Big Blue River, Kansas, authorized as a unit of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved June 28, 1938, as modified, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, in his discretion to improve that portion of FAS 1208 extending from the intersection with Kansas State Highway 13 in section 5, township 9 south, range 8 east, thence north and west to the intersection with county road in section 14, township 8 south, range 7 east, approximately 5.78 miles, and there is authorized to be appropriated to the Secretary not to exceed $500,000 to carry out this section.

SEC. 17. (a) The project for flood control below Chatfield Dam on the South Platte River, Colorado, authorized by the Flood Control Act of 1950 (64 Stat. 175), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to participate with non-Federal interests in the acquisition of lands and interests therein and in the development of recreational facilities immediately downstream of the Chatfield Dam, in lieu of a portion of the authorized channel improvement, for the purpose of flood control and recreation.

(b) Such participation shall (1) consist of the amount of savings realized by the United States, as determined by the Secretary of the Army, acting through the Chief of Engineers, in not constructing that portion of the authorized channel improvement below the dam, together with such share of any land acquisition and recreation development costs, over and above that amount, that the Secretary of the Army determines is comparable to the share available under similar Federal programs providing financial assistance for recreation and open spaces, (2) in the instance of the aforementioned land acquisition, be restricted to those lands deemed necessary by the Secretary of the Army for flood control purposes, and (3) not otherwise reduce the local cooperation required under the project.

(c) Prior to the furnishing of the participation authorized by this Act, non-Federal interests shall enter into a binding written agreement with the Secretary of the Army to prevent any encroachments in needed flood plain detention areas which would reduce their capability for flood detention and recreation.

SEC. 18 (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to convey to the Andrew Jackson Lodge Numbered 5, Fraternal Order of Police, of Nashville, Tennessee (hereafter in this section referred to as the "lodge"), all right, title, and interest of the United States in and to that real property consisting of thirty-eight acres, more or less, which is located within the Old Hickory lock and dam project and which is presently leased to the lodge under lease numbered AA-40058-CIVENG-60-431, dated December 1, 1959.

(b) The cost of any surveys necessary as an incident of the conveyance authorized by this section shall be borne by the lodge.

(c) Title to the property authorized to be conveyed by this section shall revert to the United States, which shall have the right of immediate entry thereon, if the lodge shall ever use, or permit to be used, any part of such property for any purpose other than as a youth camp facility.

(d) The conveyance authorized by this section shall be made upon payment by the lodge to the Secretary of the Army of an amount of money equal to the fair market value of the property. The fair market value of such property shall be determined by an independent qualified appraiser acceptable to both the Secretary of the Army and the lodge. No conveyance may be made pursuant to this section after the close of the twelfth month after the month in which this section is enacted.

SEC. 19. The project for flood protection on the North Branch of the Susquehanna River, New York and Pennsylvania, authorized by the Flood Control Act of 1958 (72 Stat. 305, 306) is hereby modified to authorize and direct the Secretary of the Army, acting through the Cheif of Engineers, to pay the J. P. Ward Foundries, Incorporated, of Blossburg, Pennsylvania, such sum as he determines equitable to compensate such foundry for long-term economic injury through increased costs as the result of hte abandonment or cessation of rail transportation to the foundry due to the construction of the Tioga-Hammond Lakes project. Such payment shall be made only on condition that such foundry continues to do substantial business at such location. The Secretary of the Army shall pay such sum in five annual installments as determined equitable by him, including an initial payment sufficient to cover the costs of converting from rail to truck shipment facilities. There is authorized to be appropriated not to exceed $1,100,000 to carry out the purpose of this section.

SEC. 20. Subsection (f) of section 221 of the Flood Control Act of 1970 is amended by striking out "January 1, 1972" and inserting in lieu thereof "January 1, 1974".

SEC. 21. Section 213 of the Flood Control Act of 1970 (84 Stat. 1824, 1829) is hereby amended by (1) inserting before the period at the end of the first sentence the following: ", at an estimated cost of $11,400,000" and (2) striking out the last sentence.

SEC. 22. The project for flood protection on the Minnesota River at Mankato and North Mankato, Minnesota, authorized by the Flood Control Act of 1958 and modified by section 207 of the Flood Control Act of 1965, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to relocate at Federal expense that portion of the existing Mankato interceptor sewer extending approximately two thousand feet upstream of the Warren Creek Pumping Station. Such relocated interceptor sewer shall be designed and constructed in a manner which the Secretary of the Army determines best serves present and future municipal needs.

SEC. 23. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State in the preparation of comprehensive plans for

the development, utilization, and conservation of the water and related resources of drainage basins located within the boundaries of such States and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(b) There is authorized to be appropriated not to exceed $2,000,000 annually to carry out the provisions of this section except that not more than $200,000 shall be expended in any one year in any one State.

SEC. 24. The project for flood protection on the Pequonnock River, Connecticut, authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1405) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to advance to the town of Trumbull, Connecticut, such sums as may be necessary to provide, prior to construction of the project, municipal sewage disposal service to the St. Joseph's Manor Nursing Home. Such advance, less the amount determined by the Secretary of the Army as representing increased costs resulting from construction of such service out of the planned sequence, shall be repaid by the town within ten years of the date of enactment of this Act.

SEC. 25. The project for flood protection on the Rahway River, New Jersey, authorized by the Flood Control Act of 1965 is hereby modified to provide that the costs of relocations of utilities within the channel walls shall be borne by the United States.

SEC. 26. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a complete study of the items of local cooperation involving hold and save harmless provisions which have been required for water resources development projects under his jurisdiction, and his reasons for such requirements, and to report thereon to the Congress not later than June 30, 1974, together with recommendations as to those items of local cooperation which should appropriately be required for various types of water resources development projects.

SEC. 27. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study land use practices and recreational uses at water resource development projects under his jurisdiction, and to report thereon to the Congress not later than June 30, 1974, with recommendations as to the best use of such lands for outdoor recreation, fish and wildlife enhancement, and related purposes.

SEC. 28. Section 208 of the Flood Control Act of 1954 (68 Stat. 1256, 1266) is hereby amended by striking out "$2,000,000" and inserting in lieu thereof "$5,000,000", and by striking out "$100,000" and inserting in lieu thereof "$250,000".

SEC. 29. Section 14 of the Act approved July 24, 1946 (60 Stat. 653), is hereby amended by striking out "$1,000,000" and inserting in lieu thereof "$5,000,000", by inserting after the words "public works," "churches, hospitals, schools, and other nonprofit public services," and by striking out "$50,000" and inserting in lieu thereof "$250,000".

SEC. 30. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to provide a perimeter access road utilizing existing roads to the extent feasible, surrounding Lake Texoma, Texas and Oklahoma. There is authorized to be appropriated not to exceed $3,000,000 to carry out this section.

SEC. 31. The project for Kehoe Lake located on Little Sandy River and Tygarts Creek, Kentucky, authorized by the Flood Control Act of 1966, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to acquire, as a part of such project, in fee simple, an area consisting of approximately four thousand acres extending from the presently authorized project to Interstate Highway 64; to maintain such area in its natural state; and to to conduct environmental investigations and provide access control facilities to assure appropriate protection and enhancement of this unique resource. Acquisition of these lands shall not be commenced until an agreement satisfactory to the Secretary of the Army has been entered into with the appropriate non-Federal interests to manage the area.

SEC. 32. The project for enlargement of Lavon Reservoir on the East Fork of the Trinity River, Texas, authorized by the Flood Control Act of 1962, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide a crossing and approaches at Tickey Creek and suitable surfacing to permit all-weather use of Collin County Road 115, at a cost not to exceed $600,000.

SEC. 33. Clause (3) of subsection (b) of the first section of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e(b)), is amended to read as follows: "(3) Federal participation in the cost of a project providing significant hurricane protection shall be, for publicly owned property, 70 per centum of the total cost exclusive of land costs.".

SEC. 34. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to provide bank protection works along the Ohio River from New Matamoras to Cincinnati, Ohio, to protect public and private property and facilities threatened by erosion.

(b) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to (1) make an intensive evaluation of streambank erosion along the Ohio River with particular emphasis on the reach from Chester to Kenova, West Virginia, with a view to determining whether bank protection works should be provided at this time; (2) develop and evaluate new methods and techniques for bank protection, conduct research on soil stability, identify the causes of erosion, and recommend means for prevention and correction of the problems; (3) report to Congress the results of the studies together with his recommendations in connection therewith; and (4) the Secretary of the Army is authorized to undertake measures to construct and evaluate demonstration projects as determined by the Chief of Engineers.

(c) Prior to construction of any projects under subsection (a) or (b) local interests shall furnish assurances satisfactory to the Secretary of the Army that they will provide without cost to the United States lands, easements, and rights-of-way necessary for construction and subsequent operation of the projects; hold and save the United States free from damages due to construction, operation, and maintenance of the projects, and operate and maintain the projects upon completion.

SEC. 35. The flood control project for the Scioto River, Ohio, authorized by section 203 of the Flood Control Act of 1962, as modified, is hereby further modified (1) to permit the construction of local protection works at Chillicothe, Ohio, prior to commencement of construction of the Mill Creek Reservoir, and (2) to permit the plan for such works to be revised by the Chief of Engineers so as to provide a degree of protection substantially equivalent to that provided by the project as originally authorized.

SEC. 36. The Secretary of the Army, acting through the Chief of Engineers, is authorized to initiate the second phase of the bank erosion control works and setback levees on the Sacramento River, California, authorized by the Flood Control Act of 1960, and not to exceed $10,000,000 is authorized for such purpose.

SEC. 37. The project for Newburgh lock and dam, authorized under authority of section 6 of the River and Harbor Act approved March 3, 1909, is hereby modified to direct the Secretary of the Army, acting through the Chief of Engineers, to perform bank protection works along the Ohio River at Newburgh, Indiana. Prior to construction, local interests shall furnish assurances satisfactory to the Secretary of the Army that they will provide without cost to the United States lands, easements, and rights-of-way necessary for construction and subsequent operation of the works; hold and save the United States free from damages due to construction, operation, and maintenance of the works, and operate and maintain the works upon completion.

SEC. 38. The project for flood control and improvement of the lower Mississippi River adopted by the Act of May 15, 1928 (45 Stat. 534), as amended and modified, is hereby further amended to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake a demonstration pilot study program of bank stabilization on the delta and hill areas of the Yazoo River Basin, Mississippi, substantially in accordance with the recommendations of the Chief of Engineers in his report dated September 23, 1972, at an estimated cost of $9,500,000.

SEC. 39. Section 222 of the Flood Control Act of 1970 (Public Law 91-611) is amended by inserting at the end thereof the following: "The Secretary may also provide for the cost of construction of a two-lane, all-weather paved road (including appropriate two-lane bridges) extending from Old United States Highway 40, near Weimar across the North Fork and Middle Fork of the American River to the Eldorado County Road near Spanish Dry Diggings, substantially in accordance with the report of the Secretary entitled, 'Replacement Alternative Upstream Road System, Auburn Reservoir—June 1970'."

SEC. 40. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review the requirements of local cooperation for the Santa Cruz Harbor project, Santa Cruz, California, authorized by the River and Harbor Act of 1958, with particular reference to Federal and non-Federal cost sharing, and he shall report the finding of such review to Congress within one year after the date of enactment of this section.

SEC. 41. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review the requirements of local cooperation for the project for Anaheim Bay, California, authorized by the River and Harbor Act of 1954 for Seal Beach, California, with particular reference to Federal and non-Federal cost sharing and he shall report the finding of such review to Congress within one year after the date of enactment of this section.

SEC. 42. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake such emergency bank stabilization works as are necessary to protect the Sacred Heart Hospital in Yankton, South Dakota, from damages caused by bank erosion downstream of Gavins Point Dam, Missouri River.

SEC. 43. The project for navigation at Port San Luis, San Luis Obispo Harbor, California, authorized by the River and Harbor Act of 1965, Public Law 89-298, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to accept in annual installments during the period of construction the required local interest's share of the cost of constructing the general navigation features of such project.

SEC. 44. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a detailed study and report of the total benefits and costs attributable to the water resources de-

velopment projects undertaken in the Ohio River Basin by the Corps of Engineers. The evaluation of benefits and costs attributable to such projects shall include consideration of the enhancement of regional economic development, quality of the total environment, the well-being of the people, and the national economic development.

(b) The Secretary, acting through the Chief of Engineers, shall report the finding of such study to Congress within two years after funds are made available to initiate the study.

(c) There is authorized to be appropriated to the Secretary not to exceed $2,000,000 to carry out this section.

SEC. 45. The comprehensive plan for flood control and other purposes in the Missouri River Basin authorized by the Flood Control Act of June 28, 1938, as amended and supplemented, is further modified to provide for emergency bank stabilization works in that reach of the Missouri River between Gavins Point Dam and Sioux City, Iowa, as determined to be necessary by the Secretary of the Army, acting through the Chief of Engineers. Such determination shall be made in cooperation with the Governors of South Dakota and Nebraska with regard to priority of locations to be protected and the nature of the protective works. Provisions (a), (b), and (c) of section 3 of the Act of June 22, 1936, shall apply to the work undertaken. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to prepare and submit to the Congress a report recommending such additional bank stabilization measures as he deems necessary for construction below Gavins Point. There is hereby authorized $5,000,000 to carry out this section.

SEC. 46. The project for the Beaver Brook Dam and Reservoir, Keene, New Hampshire, authorized by the Flood Control Act of 1968 (82 Stat. 739) is hereby modified to provide that the cash contribution required of local interests, as their share of the costs of lands, easements, rights-of-way, and relocations allocated to flood control, shall be 13.9 per centum of the total project cost.

SEC. 47. The Cave Run Lake project in Kentucky authorized by the Flood Control Act approved June 22, 1936 and June 28, 1938, is modified to provide that the construction of any proposed road to the Zilpo Recreation Area shall not be undertaken until there is full opportunity for public review and comment on the environmental impact statement pertaining to such proposed road.

SEC. 48. If the Secretary of the Army, acting through the Chief of Engineers, finds that the proposed project to be erected at the location to be declared non-navigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969, then that portion of the Hudson River in New York County, State of New York, bounded and described as follows is hereby declared to be not a navigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof or the erection of permanent pile-supported structures thereon: Beginning at a point on the United States bulkhead line lying shoreward of a line parallel to and one hundred feet easterly from the United States Pierhead line, as it exists on the date of enactment of this Act, and bounded on the north by a line parallel to and one hundred forty feet southerly from the northerly line of West Forty Seventh Street extended westerly, and bounded on the south by the north side of West Forty Third Street extended westerly. This declaration shall apply only to portions of the above described area which are bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

SEC. 49. (a) Subject to the provisions of subsection (b) of this section, the Secretary of the Army is authorized and directed to convey to the Mountrail County Park Commission of Mountrail County, North Dakota, all rights, title, and interest of the United States in and to the following described tracts of land:

TRACT NUMBER 1

All of the land which lies landward of a line, which line is 300 feet above and measured horizontally from contour elevation 1850 mean sea level of old Van Hook Village in the northwest quarter of section 32, township 152, range 91 west of the fifth guide meridian.

TRACT NUMBER 2

All of the land which lies landward of a line which line is 300 feet above and measured horizontally from contour elevation 1850 mean sea level of Olson's first addition, part of the southwest quarter of section 29, township 152, range 91 west of the fifth guide meridian.

TRACT NUMBER 3

Hodge's first addition, part of the northeast quarter of section 32, township 152, range 91, west of the fifth guide meridian.

(b) (1) The conveyance of such portion of the lands described in subsection (a) as is being used by the North Dakota State Game and Fish Department for wildlife management purposes shall not become effective until the termination of the license granted to such department for such use either in accordance with its original terms on October 31, 1980, or at any time prior thereto.

(2) The lands conveyed pursuant to this section shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, solely for public park and recreational purposes, and if such lands are ever used for any other purpose, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry thereon.

(3) The conveyance authorized by this section shall be subject to such other terms and conditions as the Secretary of the Army deems to be in the public interest.

(c) The Mountrail County Park Commission shall pay the costs of such surveys as may be necessary to determine the exact legal description of the lands to be conveyed and such sums as may be fixed by the Secretary of the Army to compensate the United States for its administrative expenses in connection with the conveyance of such lands, which sum shall be covered into the Treasury into miscellaneous expenses.

SEC. 50. (a) Section 252 of the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1757) is amended by adding at the end thereof the following:

"(d) For the purposes of this section, 'net cost' and 'net costs' of repairing, restoring, reconstructing, or replacing any such facility shall include the costs actually incurred in replacing the facility's services with services from other sources during the period of repair, restoration, reconstruction, or replacement of such facility, to the extent such costs exceed the costs which would have been incurred in providing such services but for the disaster."

(b) The amendment made by section (a) of this section shall take effect as of August 1, 1969.

SEC. 51. The Beaver Dam in the State of Arkansas shall hereafter be known as the James W. Trimble Dam, and any law, regulation, document, or record of the United States in which such dam is designated or referred to shall be held to refer to such dam under and by the name of "James W. Trimble Dam."

SEC. 52. The portion of the project for flood protection on Chartiers Creek that is within Allegheny County, Pennsylvania, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298), shall be designated as the "James G. Fulton Flood Protection Project". Any reference to such project in any law, regulation, map, document, record, or other paper of the United States shall be held to be a reference to the "James G. Fulton Flood Protection Project".

SEC. 53. The Secretary of the Army, acting through the Chief of Engineers, is authorized to amend the contract between the city of Aberdeen, Washington, and the United States for use of storage space in the Wynoochee Dam and Lake on the Wynoochee River, Washington, for municipal and industrial water supply purposes so as to provide that the initial and subsequent payments for the present demand water supply storage under the contract may be deferred for a period of up to ten years.

SEC. 54. The project for Wynoochee Dam and Lake, Wynoochee River, Washington, authorized by the Flood Control Act approved October 23, 1962 (76 Stat. 1193), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to transfer to the State of Washington, as a part of project costs, an amount estimated at $664,000 for construction of fish hatchery facilities for mitigation of losses of natural spawning areas for anadromous trout occasioned by project construction.

SEC. 55. Section 7 of the River Basin Monetary Authorization and Miscellaneous Civil Works Amendment Act of 1970 (84 Stat. 310) is hereby amended to read as follows:

"SEC. 7. That the project for Libby Dam, Kootenai River, Montana, is hereby modified to provide that funds available for such project, in an amount estimated at $4,000,000 may be used in the construction of fish hatchery facilities and the performance of related services, for mitigation of fish losses occasioned by the project, in a manner deemed appropriate by the Secretary of the Army, acting through the Chief of Engineers."

SEC. 56. (a) The project for Libby Dam, Kootenai River, Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170) is hereby modified to provide that the Secretary of the Army, hereinafter designated as the "Secretary", in order to conform with the purposes of the Fish and Wildlife Coordination Act of August 12, 1958 (72 Stat. 563) is authorized to acquire not more than twelve thousand acres of land for the mitigation of wildlife grazing losses caused by the project.

(b) The Secretary is further authorized and directed to convey without monetary consideration, to the State of Montana all right, title, and interest of the United States in the land acquired under subsection (a), for use for wildlife grazing purposes. The deed of conveyance shall provide that the land shall revert to the United States in the event it ever ceases to be used for wildlife grazing purposes.

(c) There is authorized to be appropriated not to exceed $2,000,000 to carry out the provisions of this section.

SEC. 57. The project for Libby Dam (Lake Koocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting

through the Chief of Engineers, is authorized to compensate the drainage districts and owners of levied and unlevied tracts, in Kootenai Flats, Boundary County, Idaho, for modification to facilities including gravity drains, structures, pumps, and additional pumping operational costs made necessary by, and crop and other damages resulting from, the duration of higher flows during drawdown operations at Libby Dam.

SEC. 58. The project for Libby Dam (Lake Koocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to reimburse Boundary County, Idaho, for the cost incurred to elevate, relocate, or reconstruct the bridge, located at the mouth of Deep Creek as it joins the Kootenai River, made necessary by the duration of higher flows during drawdown operations at Libby Dam.

SEC. 59. The project for hurricane-flood control protection from Cape Fear to the North Carolina-South Carolina State line, North Carolina, authorized by the Flood Control Act of 1966 (80 Stat. 1418, 1419) is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, may enter into an agreement with non-Federal public bodies to provide for reimbursement of installation costs incurred by such bodies, or an equivalent reduction in the contributions they are otherwise required to make, or a combination thereof, in an amount not to exceed $2,000,000, for work to be performed in the project, subject to the provisions of subsections (b) through (e) of section 215 of the Flood Control Act of 1968.

SEC. 60. The bridge to be built as a part of Interstate Route 35 in the State of Missouri over the Grand River shall be constructed at an elevation sufficient to allow for a maximum pool elevation of eight hundred and thirty-six feet above mean sea level in the proposed Pattonsburg Dam and Lake project.

SEC. 61. (a) The Secretary of the Army (hereafter in this section referred to as the "Secretary") acting through the Chief of Engineers and in accordance with the national recreation area concept included in the interagency report prepared pursuant to section 218 of the Flood Control Act of 1968 (Public Law 90-483) by the Corps of Engineers, the Department of the Interior, and the Department of Agriculture, as modified by this Act, is authorized and directed to establish on the Big South Fork of the Cumberland River in Kentucky and Tennessee the Big South Fork National River and Recreation Area for the purposes of conserving and interpreting an area containing unique cultural, historic, geologic, fish and wildlife, archaeologic, scenic, and recreational values, preserving as a natural, free-flowing stream the Big South Fork of the Cumberland River, major portions of its Clear Fork and New River stems, and portions of their various tributaries for the benefit and enjoyment of present and future generations, the preservation of the natural integrity of the scenic gorges and valleys, and the development of the area's potential for healthful outdoor recreation. The boundaries shall be as generally depicted on the drawing entitled "Big South Fork National River and Recreation Area" numbered BSF-1 and dated September 26, 1972, which shall be on file and available for public inspection in the office of the Chief of Engineers.

(b) The Secretary shall establish the Big South Fork National River and Recreation Area by publication of notice thereof in the Federal Register when he determines that the United States as acquired an acreage within the boundaries of the National River and Recreation Area that is efficiently administrable for the purposes of this section, and substantially completed the construction of all access roads, day-use facilities, campground facilities, lodges, and the necessary administrative buildings. After said publication of notice, the Secretary shall transfer the jurisdiction of the Big South Fork National River and Recreation Area to the Secretary of the Interior who shall administer the National River and Recreation Area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented. In the administration of the National River and Recreation Area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this Act. The Secretary of the Interior may revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand. Following such transfer the authorities available to the Secretary for the acquisition of lands and interests therein subsection (c) of this section shall likewise be available to the Secretary of the Interior. The Secretary may revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand.

(c) (1) Within the boundaries of the Big South Fork National River and Recreation Area, the Secretary, acting through the Chief of Engineers, may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, or exchange or otherwise, except that lands owned by the States of Kentucky and Tennessee or any political subdivisions thereof may be acquired only by donation. When an individual tract of land is only partly within the boundaries of the national river, the Secretary, acting through the Chief of Engineers, may acquire all of the tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the national river and recreation area may be exchanged by the Secretary, acting through the Chief of Engineers, for non-Federal lands within the national river and recreation area boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377; 40 U.S.C. 471 et seq.), as amended. Notwithstanding any other provision of law, any Federal property within the boundaries of the national river and recreation area shall be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of this section.

(2) With the exception of property or any interest in property that the Secretary, acting through the Chief of Engineers, determines is necessary for purposes of administration, preservation, or public use, any owner or owners (hereafter in this section referred to as "owner") of improved property used solely for noncommercial residential purposes on the date of its acquisition by the Secretary, acting through the Chief of Engineers, may retain the right of use and occupancy of such property for such purposes for a term, as the owner may elect, ending either (A) upon the death of the owner or his spouse, whichever occurs later, or (B) not more than twenty-five years from the date of acquisition. The Secretary, acting through the Chief of Engineers, shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the term retained by the owner. Such right (i) shall be subject to such terms and conditions as the Secretary, acting through the Chief of Engineers, deems appropriate to assure that the property is used in accordance with the purposes of this section, (ii) may be transferred or assigned, and (iii) may be terminated with respect to the entire property by the Secretary, acting through the Chief of Engineers, upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential purposes, and upon tender to the holder of the right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

Any person residing upon improved property, subject to the right of acquisition by the Secretary, acting through the Chief of Engineers, as a tenant or by the sufferance of the owner or owners of the property may be allowed to continue in such residence for the lifetime of such person or his spouse, whichever occurs later, subject to the same restrictions as applicable to owners residing upon such property and provided that any obligation or rental incurred as consideration for such tenancy shall accrue during such term to the Department of the Army to be used in the administration of this section.

(3) As used in this subsection the term "improved property" means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before January 1, 1972, together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary, acting through the Chief of Engineers, shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, except that the Secretary, acting through the Chief of Engineers, may exclude from any improved property any waters or land fronting thereon, together with so much of the land adjoining such waters or land as he deems necessary for public access thereto.

(4) In any case where the Secretary, acting through the Chief of Engineers, determines that underlying minerals are removable consistent with the provisions of subsection (e) (3) of this section, the owner of the minerals underlying property acquired for the purpose of this section may retain such interest. The Secretary, acting through the Chief of Engineers, shall reserve the right to inspect and regulate the extraction of such minerals to insure that the values enumerated in subsection (a) are not reduced and that the purposes declared in subsection (e) (1) are not interfered with.

(d) The Secretary, acting through the Chief of Engineers, shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the Big South Fork National River and Recreation Area in accordance with applicable Federal and State laws, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary, acting through the Chief of Engineers, pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(e) (1) It is the intent of Congress that the establishment and management of the Big South Fork River and Recreation Area shall be for the purposes of preserving and interpreting the scenic, biological, archeological, and historical resources of the river gorge areas and developing the natural recreational potential of the area for the enjoyment of the public and for the benefit of the economy of the region. The area within the boundary of the river and recreation area shall be divided into two categories; namely, the gorge areas and adjacent areas as hereinafter defined.

(2) (A) Within the gorge area, no extrac-

tion of, or prospecting for, minerals, petroleum products, or gas shall be permitted. No timber shall be cut within the gorge area except for limited clearing necessary for establishment of day-use facilities, historical sites, primitive campgrounds, and access roads. No structures shall be constructed within the gorge, except for reconstruction and improvement of the historical sites specified in paragraphs (5) and (6) of this subsection and except for necessary day-use facilities along the primary and secondary access routes specified herein and within five hundred feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes.

(B) Primary access routes into the gorge area may be contracted or improved upon the general route of the following designated roads: Tennessee Highway Numbered 52, FAS 2451 (Leatherwood Ford Road), the road into the Blue Heron community, and Kentucky Highway Numbered 92.

(C) Secondary access roads in the gorge area may be constructed or improved upon the following routes: the roads from Smith Town, Kentucky to Worley, Kentucky, the road crossing the Clear Fork at Burnt Mill Bridge, the road from Goad, Tennessee, to Zenith, Tennessee, the road from Co-Operative, Kentucky, to Kentucky Highway Numbered 92, the road entering the gorge across from the mouth of Alum Creek in Kentucky, the road crossing the Clear Fork at Peters Bridge.

(D) All other existing roads in the gorge area shall be maintained for nonvehicular traffic only, except that nothing in this subsection shall abrogate the right of ingress and egress of those who remain in occupancy under subsection (c)(1) of this section.

(E) Road improvement or maintenance and any construction of roads or facilities in the gorge area as permitted by this subsection shall be accomplished by the Secretary, acting through the Chief of Engineers, in a manner that will protect the declared values of this unique natural scenic resource.

(3) In adjacent areas: the removal of timber shall be permitted only where required for the development or maintenance of public use and for administrative sites and shall be accomplished with careful regard for scenic and environmental values; prospecting for minerals and the extraction of minerals from the adjacent areas shall be permitted only where the adit to any such mine can be located outside the boundary of the recreation area; no surface mining or strip mining shall be permitted; prospecting and drilling for petroleum products and natural gas shall be permitted in the adjacent area under such regulations as the Secretary, acting through the Chief of Engineers, may prescribe to minimize detrimental environmental impact, such regulations shall provide among other things for an area limitation for each such operation, zones, where operations will not be permitted, safeguards to prevent air and water pollution; no storage facilities for petroleum products or natural gas shall be located within the boundary of the project; the Secretary, acting through the Chief of Engineers, is authorized to construct two lodges with recreational facilities within the adjacent areas so as to maximize and enhance public use and enjoyment of the entire area; construction of all roads and facilities in the adjacent areas shall be undertaken with careful regard for the maintenance of the scenic and esthetic values of the gorge area and the adjacent areas.

(4) The gorge area as set out in subsections (1) and (2) of this section shall consist of all lands and waters of (A) the Big South Fork, Clear Fork, and New River which lie between the gorge or valley rim on either side (where the rim is not clearly defined by topography, the gorge boundary shall be established at an elevation no lower than that of the nearest clearly demarked rim on the same side of the valley), and (B) those portions of the main tributaries and streams in the watersheds of the Big South Fork Clear Fork, and New River that lie within a gorge or valley rim on either side, except that no lands or waters north of Kentucky Highway Numbered 92 shall be included. The designated adjacent areas shall consist of the balance of the project area.

(5) The Secretary, acting through the Chief of Engineers, shall consult and cooperate with the Tennessee Historical Commission and the Rugby Reservation Association and other involved agencies and associations, both public and private, concerning the development and management of the Big South Fork River and Recreation Area in the area adjacent to Rugby, Tennessee. Development within this area shall be designed toward preserving and enhancing the historical integrity of the community and any historical sites within the boundary of the project.

(6) The Secretary, acting through the Chief of Engineers, or the Secretary of the Interior, at such time as jurisdiction over the National River and Recreation Area has been transferred to him pursuant to subsection (b) of this section, shall provide for the restoration of the Blue Heron Mine community in a manner which will preserve and enhance the historical integrity of the area and will contribute to the public's understanding and enjoyment of its historical value. To that end the Secretary, acting through the Chief of Engineers, or the Secretary of the Interior, at such times as jurisdiction over the National River and Recreation Area has been transferred to him pursuant to subsection (b) of this section, may construct and improve structures within and may construct and improve a road into this community notwithstanding any other provision of this section.

(7) The Secretary, acting through the Chief of Engineers, shall study the desirability and feasibility of reestablishing rail transportation on the abandoned O&W railbed or an alternative mode of transportation within the national river and recreation area upon the O&W roadbed, and shall report his recommendation with regard to development of this facility.

(f) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), on or directly affecting the Big South Fork National River and Recreation Area and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, acting through the Chief of Engineers. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the Big South Fork National River and Recreation Area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreation, and fish and wildlife values present in the area on the date of enactment of this section. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, acting through the Chief of Engineers, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Chief of Engineers in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this section and would affect the national river and recreation area and the values to be protected by it under this section.

(g) The Secretary, acting through the Chief of Engineers, shall study transportation facilities in the region served by the national river and recreation area and shall establish transportation facilities to enhance public access to the national river and recreation area. In this connection the Secretary acting through the Chief of Engineers, is authorized and directed to acquire the ownership and custody of all public roads required to serve the public use area other than State highways and to establish, operate, maintain, and control at Federal cost an interior and circulating road system sufficient to meet the purposes of this section, except that any existing public road, which at the time of its acquisition continues to be a necessary and essential part of the county highway system at large, may at the discretion of the Chief of Engineers, be relocated outside of such area upon mutual arrangements with the owning agency or else such road shall remain in place and shall be maintained at Federal expense and kept open at all times for general travel purposes. Nothing in this subsection shall abrogate the right of egress and ingress of those persons who may remain in occupancy under subsection (c) of this section, nor preclude, notwithstanding such subsection, the adjustment, relocation, reconstruction, or abandonment of State highways situated in the area, with the concurrence of the agency having the custody thereof upon such arrangements as the Secretary, acting through the Chief of Engineers, deems appropriate and in the best interest of the general welfare.

(h) In furtherance of the purpose of this section the Secretary, acting through the Chief of Engineers, or the Secretary of the Interior, at such time as jurisdiction over the National River and Recreation Area has been transferred to him pursuant to subsection (b) of this section, in cooperation with the Secretary of Agriculture, the heads of other Federal departments and agencies involved, and the State of Tennessee and its political subdivisions, shall formulate a comprehensive plan for that portion of the New River that lies upstream from United States Highway Numbered 27. Such plan shall include, among other things, programs (1) to enhance the environment and conserve and develop natural resources, and (2) to minimize siltation and acid mine drainage. Such plan, with recommendations, including as to costs and administrative responsibilities, shall be completed and transmitted to the Congress within one year from the date of enactment of this section.

(i) The Secretary, acting through the Chief of Engineers, or the Secretary of the Interior, at such time as jurisdiction over the National River and Recreation Area has been transferred to him pursuant to subsection (b) of this section, shall consult and cooperate with other departments and agencies of the United States and the States of Tennessee and Kentucky in the development of measures and programs to assure the highest water quality within the Big South Fork National River and Recreation Area and to insure that such programs for the protection of water quality do not diminish other values that are to be protected under this section.

(j)(1) Until such time as the transfer of jurisdiction authorized by subsection (b) of this section shall take place, for the purpose of financially assisting the States of Tennessee and Kentucky, McCreary County, Kentucky, and Scott, Morgan, Pickett, and Fentress Counties in Tennessee, because of losses which they may sustain by reason of the

fact that certain lands and other property within them may be included within the national river and recreation area established by this section and shall thereafter no longer be subject to real and personal property taxes levied or imposed by them, payments shall be made to them on an annual basis and in an amount equal to that which they would have received from such taxes, but for the establishment of the national river and recreation area.

(2) For the purpose of enabling the Secretary, acting through the Chief of Engineers, to make such payments during the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, June 30, 1976, and June 30, 1977, there are authorized to be appropriated such sums as may be necessary.

(k) There are authorized to be appropriated $32,850,000 to carry out the provisions of this section.

SEC. 62. In honor of the late Richard B. Russell, and in recognition of his long and outstanding service as a Member of the United States Senate, the Trotters Shoals Dam and Lake, Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the "Richard B. Russell Dam and Lake", and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which such project is referred to shall be held and considered to refer to such project by the name of the "Richard B. Russell Dam and Lake".

SEC. 63. The authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pennsylvania, as provided in section 101 of the River and Harbor Act of 1960 (74 Stat. 480) is reinstated and extended, under the terms existing immediately prior to the termination of such authorization, for a period of five years from the date of enactment of this Act, or if the review study of such project being carried out by the Secretary of the Army is not completed prior to the end of such period, until such study is completed and a report thereon submitted to the Congress. There is authorized to be appropriated not to exceed $3,500,000 to carry out this section.

SEC. 64. (a) This section may be cited as the "Shoreline Erosion Control Demonstration Act of 1973."

(b) The Congress finds that because of the importance and increasing interest in the coastal and estuarine zone of the United States, the deterioration of the shoreline within this zone due to erosion, the harm to water quality and marine life from shoreline erosion, the loss of recreational potential due to such erosion, the financial loss to private and public landowners resulting from shoreline erosion, and the inability of such landowners to obtain satisfactory financial and technical assistance to combat such erosion, it is essential to develop, demonstrate, and disseminate information about low-cost means to prevent and control shoreline erosion. It is therefore the purpose of this section to authorize a program to develop and demonstrate such means to combat shoreline erosion.

(c) (1) The Secretary of the Army, acting through the Chief of Engineers, shall establish and conduct for a period of five fiscal years a national shoreline erosion control development and demonstration program. The program shall consist of planning, constructing, operating, evaluating, and demonstrating prototype shoreline erosion control devices, both engineered and vegetative.

(2) The program shall be carried out in cooperation with the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion, and in cooperation with Federal, State, and local agencies, private organizations, and the Shoreline Erosion Advisory Panel established pursuant to subsection (d).

(3) Demonstration projects established pursuant to this section shall emphasize the development of low-cost shoreline erosion control devices located on sheltered or inland waters. Such projects shall be undertaken at no less than two sites on the shoreline of the Atlantic, Gulf, and Pacific coasts, at not less than one site on the Great Lakes, and at locations of serious erosion along the shores of Delaware Bay, particularly at those reaches known as Pickering Beach, Kitts Hummock, Bowers, Slaughter Beach, Broadkill Beach, and Lewes in the State of Delaware. Sites selected should, to the extent possible, reflect a variety of geographical and climatic conditions.

(4) Such demonstration projects may be carried out on private or public lands except that no funds appropriated for the purpose of this section may be expended for the acquisition of privately owned lands. In the case of sites located on private or non-Federal public lands, the demonstration projects shall be undertaken in cooperation with a non-Federal sponsor or sponsors who shall pay at least 25 per centum of construction costs at each site and assume operation and maintenance costs upon completion of the project.

(d) (1) No later than one hundred and twenty days after the date of enactment of this section Chief of Engineers shall establish a Shoreline Erosion Advisory Panel. The Chief of Engineers shall appoint fifteen members to such Panel from among individuals who are knowledgeable with respect to various aspects of shoreline erosion, with representatives from various geographical areas, institutions of higher education, professional organizations, State and local agencies, and private organizations, except that such individuals shall not be regular full-time employees of the United States. The Panel shall meet and organize within ninety days from the date of its establishment, and shall select a Chairman from among its members. The Panel shall then meet at least once each six months thereafter and shall expire ninety days after termination of the five-year program established pursuant to subsection (c).

(2) The Panel shall—

(A) advise the Chief of Engineers generally in carrying out provisions of this section;

(B) recommend criteria for the selection of development and demonstration sites;

(C) recommend alternative institutional, legal, and financial arrangements necessary to effect agreements with non-Federal sponsors of project sites;

(D) make periodic reviews of the progress of the program pursuant to this section;

(E) recommend means by which the knowledge obtained from the project may be made readily available to the public; and

(F) perform such functions as the Chief of Engineers may designate.

(3) Members of the Panel shall, while serving on business of the Panel, be entitled to receive compensation at rates fixed by the Chief of Engineers, but not in excess of $100 per day, 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 of the United States Code for persons in Government service employed intermittently.

(4) The Panel is authorized, without regard to the civil service laws, to engage such technical and other assistance as may be required to carry out its functions.

(e) The Secretary of the Army, acting through the Chief of Engineers, shall prepare and submit annually a program progress report, including therein contributions of the Shoreline Erosion Advisory Panel, to the chairmen of the Committees on Public Works of the Senate and House of Representatives. The fifth and final report shall be submitted sixty days after the fifth fiscal year of funding and shall include a comprehensive evaluation of the national shoreline erosion control development and demonstration program.

(f) There is authorized to be appropriated for the fiscal year ending June 30, 1974, and the succeeding four fiscal years, a total of not to exceed $6,000,000 to carry out the provisions of this section. Sums appropriated pursuant to this subsection shall remain available until expended.

SEC. 65. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, plan, and construct projects for the control of streambank erosion in the United States, its possessions, and the Commonwealth of Puerto Rico, in the interests of reducing damages from erosion, the deposition of sediment in lakes and waterways, the destruction of channels and adjacent lands, and other adverse effects of streambank erosion, when in the opinion of the Chief of Engineers such projects are consistent with the objectives of sound flood plain management and will result in substantial public benefits through the provision of needed protection to public, residential, and commercial properties.

(b) No such project shall be construed under this section if the estimated Federal first cost exceeds $250,000. Any such project shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of survey reports.

(c) For all projects undertaken pursuant to this section, appropriate non-Federal interests shall furnish assurances satisfactory to the Secretary of the Army that they will—

(1) provide without costs to the United States all lands, easements, and rights-of-way necessary for the construction of the project;

(2) hold and save the United States free from damages due to construction;

(3) operate and maintain all the works after completion in accordance with regulations prescribed by the Secretary of the Army; and

(4) contribute 25 per centum of the first cost of the project.

(d) The authority contained in this section is supplemental to, and not in lieu of, the authority contained in section 14 of the Act approved July 24, 1946 (60 Stat. 653), as amended.

(e) There is authorized to be appropriated not to exceed $10,000,000 per annum for the construction of the projects authorized by this section.

SEC. 66. (a) The project for navigation in the Atchafalaya River and Bayous Chene, Boeuf, and Black, Louisiana, authorized by the River and Harbor Act of 1968 (82 Stat. 731) is hereby modified to provide that the local interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, and embankments therefor.

(b) The requirements for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that

applicable water quality standards are not being violated.

SEC. 67. Notwithstanding any other provision of law, the States of Illinois and Iowa, which are connected at Keokuk, Iowa, by the bridge constructed by the Keokuk and Hamilton Bridge Company pursuant to Public Law 63-342 and at Burlington, Iowa, by the bridge constructed by the Citizens' Bridge Company, pursuant to Public Law 64-1, are authorized to contract individually or jointly with either or both of the cities of Keokuk, Iowa, and Burlington, Iowa, on or before June 1, 1974, to assume responsibility for the operation, maintenance, and repair of the bridges at Keokuk and Burlington and the approaches thereto and for lawful expenses incurred in connection therewith. When either or both States have entered into such an agreement any outstanding principal and interest indebtedness on account of a bridge shall be paid from reserve funds accumulated for that purpose and the balance of such funds, if any, shall be used to defray costs of operating and maintaining the bridge. After such an agreement is entered into with respect to a bridge, that bridge shall thereafter be free of tolls.

SEC. 68. The project for flood control, water supply, and related purposes, in the Pocatalico River Basin, West Virginia, is hereby authorized substantially in accordance with the recommendations contained in the Pocatalico River Basin Joint Study Interim Report prepared by the Corps of Engineers and the Soil Conservation Service, at an estimated cost of $7,545,400, except that no funds shall be appropriated for this project until it is approved by the President.

SEC. 69. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to perform channel clean-out operations and snagging and clearing for selected streams where chronic and persistent flood conditions exist in the lower Guyandot River Basin, West Virginia, for the purpose of improving channel capacities, visual environment, and human well-being all in the interest of flood control. Such operations shall be performed as an interim measure pending completion of the R. D. Bailey Lake project at a total cost not to exceed $2,000,000. Appropriate non-Federal public interests as determined by the Secretary of the Army, acting through the Chief of Engineers, shall, prior to initiation of remedial operations, furnish assurances satisfactory to the Secretary of the Army that they will furnish the necessary lands, disposal areas, easements and rights-of-way, and hold and save the United States free from damages due to the clean-out operations.

SEC. 70. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct small flood protection projects not specifically authorized by Congress, and not within areas intended to be protected by projects so authorized, which come within the provisions of section 1 of the Flood Control Act of June 22, 1936, when in the opinion of the Chief of Engineers such work is advisable and protects an area which has been declared to be a major disaster area pursuant to the Disaster Act of 1970 in the preceding five-year period, except that not more than $2,000,000 shall be allotted for this purpose for any one project. The provisions of local cooperation specified in section 3 of the Flood Control Act of June 22, 1936, shall apply. The work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports. There is authorized not to exceed $25,000,000 in each fiscal year for the next five fiscal years to carry out this section.

SEC. 71. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to perform such work as may be necessary to provide for the repair and conversion to a fixed-type structure of dam numbered 3 on the Big Sandy River, Kentucky and West Virginia.

(b) The work authorized by this section shall have no effect on the condition that local interests shall own, operate, and maintain the structure and related properties as required by the Act of August 6, 1956 (70 Stat. 1062).

SEC. 72. "Policies, Standards and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources" approved by the President on May 15, 1962, and published by the Senate in Senate Document 97 on May 29, 1962, and the interest rate formula amendment issued by the Water Resources Council effective December 24, 1968, shall remain in effect until December 31, 1973, unless changed prior to that date by an Act of Congress.

SEC. 73. This Act my be cited as the "Flood Control Act of 1973".

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BARTLETT. Mr. President, today I voted against S. 606 because I do not believe that it is in the best interest of Oklahoma or the United States.

I am not opposed to S. 606 because of the projects it contains. I am sure most of them are quite worthwhile. In fact, the bill contains $3,000,000 for perimeter and access roads at Lake Texhoma, which are certainly needed. If the bill does not pass I will work to fund this project at a later time.

However the bill taken as a whole is highly inflationary. According to the White House, it will cost $632,000,000 to fund.

The bill is an exact duplicate of the bill vetoed by the President last session for being inflationary. The committee reported it out without any further hearings since the President's veto.

The President has presented an alternate bill which is $250,000,000 less expensive and within his budgetary limits.

I said when I ran for the Senate, that Government had gotten out of control and that it was time to restore some commonsense to spending. Unfortunately belt tightening does not mean just tightening someone's belt. We have got to cut all Government spending if fiscal responsibility is to mean anything.

For these reasons I voted in opposition to S. 606.

CONFIRMATION BY THE SENATE OF APPOINTMENTS TO OFFICES OF DIRECTOR AND DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 13, S. 518.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 518) 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.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill.

THE OMB: FROM PRESIDENTIAL BUDGET ADVISER TO ASSISTANT PRESIDENT

Mr. METCALF. Mr. President, before 1921, the Federal Government had no way of developing a consolidated statement of the revenue and expenditure needs of its Government to help the Congress determine what programs should be approved and adopted. After much investigation and debate, Congress moved to resolve this by passing the Budgeting and Accounting Act of 1921, which among other things established a national budget system and set up an agency known as the Bureau of the Budget to assist the President in formulating a unified budget to be submitted to the Congress.

I might say, Mr. President, that in the development of this legislation the Senate's position was clear. The appointment of the Director of this new Bureau of the Budget, and his deputy, must be subject to the advice and consent of the Senate.

Unfortunately, the conference committee reported a bill without the requirement of confirmation on the theory that these officials were to be personal budget advisers to the President.

Indeed, it did not contemplate that they would subsequently acquire the huge managerial and operating responsibility they now have.

In fact, the only reference to management in the 1921 act was a provision that the new agency make a study for the President to determine what changes should be made in the existing organizations and functions of Federal departments, in their appropriations, in the assignment of specific activities, and in the regrouping of Government services. Under this early act, it was the President's responsibility to make the recommendations for programs and management to the Congress, not the responsibility of a budgetary bureaucracy.

That was in 1921.

This is 1973.

In the succeeding 52 years, that small agency of accountants has mushroomed into a super department with life or death powers over the proposal and expenditure of Government funds, the management and evaluation of Government programs, and the organization of the Federal work force.

In the name of the President, the Director of the now-titled "Office of Management and Budget" has become the chief administrative officer of the Government. In fact, he is often referred to as the "Assistant President," and it is particularly significant that today this officer has been designated as "Special Assistant to the President for Management," by President Nixon. What does this mean? A primary emphasis on management?

In 1922, the budget was $4 billion. Today it is close to $270 billion. There were a couple of dozen men in that Pres-

ident's Budget Office in 1922; today there are nearly 700.

If Congress, and the people are really concerned about this arrogation, and aggregation, of governmental power in the hands of the President, they should look first to the acquired powers of the President of the United States, which are exercised in his Office of Management and Budget.

First, in the name of the President, this Office with nearly 700 people—nearly half of whom are GS–13's and above—has become—in essence—the Presidency.

The OMB determines line-by-line budget limitations for each agency, including the regulatory commissions which are supposed to be the "arms of Congress," beyond which line, the Federal agencies are forbidden to lobby anyone. Although there is some indirect lobbying on the budget, it is stamped out at every turn by OMB officials. One of the most secret documents in the Government is the President's budget; and one of the greatest sins in the Federal bureaucracy is to lobby against it. But this happens. And it is just about the only way Congress can learn the truth, for we get no realistic information in any other way.

After Congress passes a law, it is the OMB that writes the general guidelines and regulations for the agencies to be followed in the enforcement of the congressional mandate. While the Congress is considering legislation, it is the OMB that coordinates the Executive's legislative recommendations and controls the flow of executive branch information which is sought by Congress in making its judgment.

When agencies disagree with each other, the OMB resolves the conflicts, whether they be over programs or management. When agency heads strike out on their own, or assert policies inconsistent with executive policy, it is the OMB which puts pressure on the divisions and bureaus of the agencies to bring the agency heads back into line.

After Congress enacts an appropriation bill, and the President signs it—the whole bill because he is precluded from an item veto—it is the OMB that determines the President's priorities, and goes to work on a program of impounding funds with ruthless disregard to congressional policy. We have learned this in the last few days through exhaustive hearings in the Government Operations Committee hearing room, where witness after witness has testified to the power of the Director of OMB to change the direction of congressional policy by changing the expenditure of appropriated funds.

They do it—the top men of OMB—because the President cannot possibly understand or resolve the complexities of the many programs they cut or withhold. They do it, because they have been delegated to do it.

Such men—with such power—should be subject to Senate confirmation, and congressional scrutiny.

Since 1921, both Congress and the Chief Executive have conveyed additional powers on the Bureau—OMB—and its Director. The Budgeting and Accounting Procedures Act of 1950 gave the Director sweeping powers over agency accounting and budget systems and classifications, over statistical, performance and cost information systems, and the preparation of cost-based budgets. These fiscal management powers were strengthened by the Congress in 1956.

The Director issues the rules and regulations for coordinating Federal aid programs in metropolitan areas under the model cities legislation. Under the Intergovernmental Cooperation Act of 1968, the President delegated to the Director authority to issue rules with respect to the administration of grant-in-aid funds, special and technical services to State and local governments, and the formulation, evaluation and review of Federal programs having a significant impact on area community development—known as the A–95, Federal aid clearinghouse procedures.

The Director, along with the Chairman of the Civil Service Commission, determines Federal pay comparability adjustments.

He issues regulations with regard to Government employee training programs with regard to the absorption of costs. Under the Federal Reports Act, he holds the ultimate power to determine what questionnaires, surveys, reports, and other investigational inquiries will be promulgated by the agencies, including the regulatory commissions, and what specific information will be sought.

The Director is authorized by Congress to manage and monitor through investigation and regulation the hundreds of public advisory committees to the Federal agencies, including making the determination as to which shall be closed or open to the public.

In addition, the Director and his staff oversee the management and expenditures of national security programs, international programs, defense expenditures, natural resource programs, and many other matters directly affecting the economy and security of the country. Furthermore, the OMB manages for the President transfers of funds between classes of appropriations, as authorized by Congress; reprograming of appropriated funds which involves the shifting of funds within an account after congressional committee clearance; and the transfer of funds from one year to the next, involving the determination and management of carryover balances.

These are subtle and complicated areas of fiscal management, but nonetheless important in areas of national policy.

The distinguished chairman of the Senate Government Operations Committee (Mr. ERVIN) has placed in this RECORD over 56 legislative provisions conveying the power of management and decisionmaking on the Director and the Deputy Director of the OMB. Such powers have been amplified by Executive orders and OMB assumptions of power where legislative and executive voids in managerial responsibility exist.

But the greatest testimonial that the Office of Management and Budget is an operational, decisionmaking, administrative agency, just as surely as are the Departments of Defense, HEW, HUD, and Transportation is in President Nixon's own message to Congress on changing the Bureau of the Budget into the OMB. He said:

> Creation of the Office of Management and Budget represents far more than a mere change of name for the Bureau of the Budget. It represents a basic change in concept and emphasis, reflecting the broader management needs of the Office of the President.
>
> The new Office will still perform the key function of assisting the President in the preparation of the annual Federal budget and overseeing its execution. It will draw upon the skills and experience of the extraordinarily able and dedicated career staff developed by the Bureau of the Budget. But preparation of the budget as such will no longer be its dominant, overriding concern.
>
> While the budget function remains a vital tool of management, it will be strengthened by the greater emphasis the new office will place on fiscal analysis. The budget function is only one of several important management tools that the President must now have.
>
> He must also have a substantially enhanced institutional staff capability in other areas of executive management—particularly in program evaluation and coordination, improvement of Executive Branch organization, information and management systems, and development of executive talent.

This move by the President to create a new management agency by the route of a reorganization plan is very significant to the consideration of S. 518, under consideration on the floor today.

Section 904(2) of the Reorganization Act—5 U.S.C. 904(2)—requires that officers authorized by reorganization plans be either confirmed by the Senate or be in the competitive civil service.

Reorganization Plan No. 2 of 1970 authorized the transfer of all existing statutory functions of the Bureau of the Budget, or its Director, to the President with the provisions that he could then redelegate them. The plan further provided that the OMB and the Director "shall perform such functions as the President may from time to time delegate or assign thereto;" that the Director, "under the direction of the President, shall supervise and direct the administration of the Office of Management and Budget;" and that the Deputy Director and Assistant Directors and other officers designated by the plan "shall perform such functions as the Director may from time to time direct."

By Executive Order No. 11541, the President delegated to the newly titled Director of the Office of Management and Budget all the functions which were transferred to the President under the plan with the further injunction that:

> Such functions shall be carried out by the Director under the direction of the President and pursuant to such further instructions as the President from time to time may issue.

I believe it can be argued, quite seriously, that the status and functions and duties of the Director and Deputy Director of the Bureau of the Budget did not remain the same—that is, only the titles were changed in accord with section 904(1) of the Reorganization Act—but were extended or modified. It could be argued that the broad authority of further delegation of functions by the President and the Director in the plan incorporated statutory authority beyond that

found in the Budgeting and Accounting Act of 1921, as amended, which established the Bureau and the Director and the functions thereof.

In short, in my opinion, the plan and the Executive order had the effect of a new "appointment" of the Director and Deputy Director to the new agency, and thus under section 904(2), they would have to be confirmed by the Senate. This argument becomes more serious when we find the President making the point that the creation of the new OMB "represents far more than a mere change in name" but rather "a basic change in concept and emphasis reflecting the broader management needs of the Office of the President."

Although this may be viewed by some as a legal technicality, or a question of interpretation and intent, it nevertheless provides just another reason why the appointments of Director and Deputy Director of the OMB should be subject to the advice and consent of the Senate.

I think it should be obvious to every Member of Congress at this time that far from being merely a personal adviser to the President, the Director of the OMB is the top administrative officer of the executive branch, and as such should be directly responsive to Congress as well as to the President.

The argument has been made—and no doubt will be made again as we take up this legislation—that the OBM is in the Executive Office of the President, that it advises the President, and that he should be able to chose his own Director without interference from the Senate. This argument carries with it a second point that is sometimes overlooked. It is that if the Director and Deputy Director of OMB are the President's men, they cannot be forced by Congress to respond to questioning. Budget directors do testify, but only at their option.

The argument in favor of special immunity under the cloak of the Presidency wears thin when we look at the extraordinary political and administrative powers which have been delegated to the OMB. The argument pales further when we examine the status of other offices and directors in the Executive Office of the President, most of which do not enjoy such a privileged position.

PRECEDENTS FOR SENATE CONFIRMATION OF DIRECTORS IN THE EXECUTIVE OFFICE OF THE PRESIDENT

Let us look at most of the other advisers to the President.

The Director of the Office of Emergency Preparedness is a key adviser to the President on a variety of civilian defense matters, from mobilization to oil import quotas. Like OMB, it coordinates Federal programs in national emergencies. Its Director, Deputy Director, and two Assistant Directors are all subject to Senate confirmation.

The Office of Science and Technology provides advice and staff assistance to the President in developing and evaluating scientific programs in the interest of national security. It does not have the "power of the purse" that OMB does. But its Director, who is also the President's science adviser, and its Deputy Director comes before the Senate for confirmation and are responsive to Congress.

The Office of Telecommunications Policy was recently created by a reorganization plan to advise the President on national communication policies and to evaluate and coordinate telecommunication activities. Both its Director and Deputy Director are appointed by and with the advice and consent of the Senate.

The Council of Economic Advisers analyzes the national economy and advises the President as to policies for economic growth and stability. The Council on Environmental Quality analyzes environmental conditions and trends; reviews and assesses Federal programs; and recommends policies for improving the quality of our environment. All members of these two important Councils in the Executive Office of the President are subject to confirmation by the Senate. And all testify as to how they arrive at their analyses and recommendations.

Finally, the Office of Economic Opportunity has been in the President's Office for more than 8 years. Again, like the OMB, it assesses the impact of Federal programs and provides administrative resources and support in the poverty area. From the beginning, its Director, Deputy Director, and five Assistant Directors have been appointed by the President, by and with the advice and consent of the Senate.

In addition, the appointments of the Executive Director of the National Aeronautics and Space Council; the Special and Deputy Special Representatives of the Office of Special Representative for Trade Negotiations; the Director and Deputy Director of the Special Action Office for Drug Abuse Prevention; the Chairman and six Commissioners of the Price Commission; and the Chairman and six members of the Pay Board are all subject to Senate confirmation.

The necessity for the President having "his own man" handling national security matters or domestic policy and planning may be argued, but there is no reason in this modern day of big Government, big budgets, and big obligations and expenditures to insulate the Director and Deputy Director of OMB from Senate and congressional scrutiny.

Rather than following the rule, OMB stands out as the glaring exception with respect to the selection of its Directors and its responsiveness to the Congress.

But let us face the real truth here. This is not any academic exercise in political science as to appointment powers with respect to the President's office. There is a very real issue at stake. It is the exaggerated power of the executive branch, at the expense of the legislative branch. That exaggeration—that arrogation, if you will—is based largely on the expertise and resources of the Office of Management and Budget—expertise in budgeting, information, management policy, and planning—which is not available to the Congress.

Perhaps the Congress should have its own Office of Management and Budget or its own Domestic Council. But until such congressional reform emerges, the very least that it is entitled to is the right to pass on the individuals who are, in essence, making legislative decisions in the executive branch.

GOVERNMENT OPERATIONS COMMITTEE AND THE BUREAU OF THE BUDGET AND OTHER BUDGETING AND ACCOUNTING MATTERS

The Office of Management and Budget and the functions and duties of its Director and Deputy Director are generally well known to the Congress, but particularly well known to the Government Operations Committee, which reported this bill.

One of the principal areas of legislative jurisdiction of the Committee on Government Operations, as set forth in rule XXV(j)(1)(A) of the Standing Rules of the Senate, is:

Budget and accounting measures, other than appropriations.

Since 1921, when the Congress enacted the Budget and Accounting Act, 1921, this committee has processed all legislation relating to budget and accounting. Since the first session of the 80th Congress, when the Legislative Reorganization Act of 1946 became effective, a substantial portion of all legislation processed by this committee has involved various aspects of budgeting and accounting. In addition to processing the Budget and Accounting Act, 1950, this committee has handled numerous amendments to the 1921 and 1950 acts, as well as a variety of collateral legislation, and prepared major studies and reports on the subject.

The issue has been raised, that more study and investigation should be made on this legislation.

We do not need this. It is a simple, open-and-shut issue. Should the Director of the OMB, and his Deputy Director be subject to senatorial advice and consent, or should they not? If you consider the Director to be solely a Presidential adviser, I suppose the answer is "No." If he is more than that, I believe the answer is "Yes." No amount of further study is going to answer the question, in my opinion. Our committee has exhausted the subject in its oversight functions.

The work of the Committee on Government Operations in this area is fully detailed and documented in a document entitled "Financial Management in the Federal Government," issued in the 87th Congress as Senate Document No. 11. This work was subsequently updated and issued in the 92d Congress as Senate Document 92–50. A convenient summary of the committee's activities in this area is found in Senate Document No. 31, issued in the 92d Congress, containing a history of 50 years of the work of the committee—1921–71.

I ask unanimous consent that a list of all reports, staff memorandums, and hearings, together with legislation under consideration by the Government Operations Committee with respect to budgeting and accounting, and hearing of the Budget Bureau, be placed in the RECORD at this point as appendix I. It will show that the committee has been conducting a continuing inquiry and study of Budget Bureau issues, functions, and responsibilities and accordingly it is my view that

the committee is sufficiently informed in order to report out the subject legislation.

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

APPENDIX I

REPORTS, STAFF MEMORANDUMS, AND HEARINGS OF THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS RELATING TO BUDGETING AND ACCOUNTING

80TH THROUGH 86TH CONGRESSES

NO., DATE ISSUED, AND SUBJECT

Reports and staff memorandums

80th Congress

80–1–6; April 8, 1947; S. 911, to provide that the Secretary of the Treasury pay the premiums on personal performance and surety bonds required to be given to the United States by all departmental and field officers and employees of the Post Office Department.

80–1–7; April 11, 1947; S.J. Res. 42, to establish a joint congressional committee to audit of all Government agencies.

80–1–18; May 14, 1947; To establish a procedure for payment of certain Government checks, and for other purposes.

80–1–21; June 3, 1947; S.J. Res. 90, to establish a commission to study intergovernmental fiscal relationships.

80–1–28; June 30, 1947; S. 1512, to improve accounting within the Federal Security Administration, to authorize intra-agency transfers and consolidations of appropriations by the Federal Security Administrator, and for other purposes.

80–1–37; August 21, 1947; Changes in Federal accounting and reporting systems.

80–1–40; September 16, 1947; Analysis of expenditure reports, period ending Aug. 31, 1947.

80–1–44; December 3, 1947; Analysis of expenditure reports, period ending Sept. 30, 1947.

80–SP–4; December 3, 1947; Analysis of expenditure reports, period ending Nov. 30, 1947.

S. Rept. 779; December 12, 1947; Federal appropriations and expenditures, fiscal year 1948.

80–2–1; January 5, 1948; Analysis of expenditure reports, period ending December 31, 1947.

80–2–10; March 12, 1948; Rescission of appropriation, salaries and expenses, Office of Price Administration.

80–2–11; March 12, 1948; Rescission of appropriation, salaries and expenses, Civilian Production Administration.

80–2–12; March 12, 1948; Rescission of appropriation, printing and binding, U.S. Patent Office.

80–2–13; March 17, 1948; Return of excess appropriations to surplus fund of the Treasury.

80–2–15; March 24, 1948; Reduction of 1948 appropriations, Department of Labor.

80–2–18; March, 31, 1948; Reduction of appropriations, Veterans' Administration.

80–2–19; March 31, 1948; Reduction of appropriations, Maritime Commission.

S. Rept. 1175; April 28, 1948; Evaluation of effect of Legislative Reorganization Act of 1946.

80–2–28; April 30, 1948; Cash receipts, expenditures, and the public debt.

80–2–32; November 15, 1948; Progress report on improvements in accounting reports.

Committee print; February 25, 1948; Worksheet on the Federal subject, annual expenditure basis.

81st Congress

81–1–27; Apr. 1, 1949; Hoover Commission Report No. 7, on "Budgeting and Accounting," and supporting reports.

81–1–44; May 23, 1949; S. 1366, payment of claims against lapsed appropriations.

81–1–44A; June 8, 1949; S. 1366, payment of claims against lapsed appropriations.

81–1–44–B; June 1, 1949; S. 1366, payment of claims against lapsed appropriation.

81–1–60; July 6, 1949; Bureau of the Budget (general management, budgeting, and accounting).

81–1–93; July 29, 1949; S. 2161, authorizing the President to impound certain appropriated moneys.

81–1–113; Aug. 19, 1949; Bureau of the Budget (agency comments).

81–1–116; Aug. 29, 1949; improper handling of Federal funds by officers and employees, GAO report.

81–1–118; Sept. 23, 1949; S.J. Res. 131 requiring the President to submit an alternative and balanced budget for fiscal year 1951 (statement of Senator McClellan). Also discussion of S.J. Res. 108.

81–2–8; Jan. 18, 1950; Savings effectuated by elimination of expenditure reports (statement of Senator McClellan).

81–2–9; Jan. 19, 1950; Creation of a Joint Committee on the Budget (statement of Senator McClellan).

81–2–20; Feb. 27, 1950; Creation of Accounting System Division, GAO, to improve Federal accounting and reporting systems.

81–2–23; Mar. 3, 1950; Relief of certifying officers.

S. Doc. 150; Mar. 28, 1950; Increasing cost of the Federal Government.

81–2–54; Apr. 22, 1950; Comparison of S. Con. Res. 38 and S. 2898, creation of a Joint Committee on the Budget.

81–2–63; June 8, 1950; Abolition of standards forms 1116, 1117, 1118, and the improvement of accounting and reporting systems.

81–2–72; July 17, 1950; Budget and Accounting Procedure Act of 1950. (S. 3850.)

S. Rept. 2685; Dec. 10, 1950; Audits of Government corporations.

82d Congress

82–1–2; Jan. 25, 1951; Operation of Legislative Reorganization Act of 1946 (pp. 13 and 14, strengthening fiscal controls).

82–1–6; Mar. 6, 1951; Progress of joint accounting project (digest and 2d annual report Jan. 12, 1951).

S. Doc. 11; Mar. 6, 1951; Amendments to the Legislative Reorganization Act, 1947–51. (Subcommittee on Reorganization.)

82–1–25; Apr. 23, 1951; Hearings on S. 913, Joint Committee on the Budget.

S. Doc. 51; July 9, 1951; The Organization of Congress. Some Problems of Committee Jurisdiction.

82–1–47 (and supplement, Aug. 5, 1951); July 17, 1951; Comparison of budget bills S. 913 (McClellan) and S. Con. Res. 5 (Wherry).

82–1–57; Oct. 15, 1951; S. 913 (McClellan) versus S. Con. Res. 5 (Wherry), Joint Committee on the Budget. (Summarizes history of S. 913.)

82–2–11; Feb. 4, 1952; Proposed amendments to S. 913, Joint Committee on Budget.

82–2–22; Apr. 16, 1952; S. Con. Res. 57 (Dirksen), requiring a balanced 1953 budget, and S.J. Res. 119 (Johnson of Colorado) limiting 1953 obligations and 1953 expenditures.

82–2–32; May 5, 1952; S. 2602, proposing a cash budget, separation of operating and capital expenditure; schedules and rollcalls on appropriation bills; and a Presidential item veto.

S. Doc. 91; July 21, 1952; Reorganization of the Federal Government.

83d Congress

83–1–31; July 11, 1953; H.R. 5228, retirement system for the Comptroller General.

S. Doc. 71; Dec. 1, 1953; A compilation of the Legislative Reorganization Act of 1946, with amendments through 1st sess., 83d Cong.

S. Rept. 861; Jan. 20, 1954; Audit reports of Government corporations and agencies.

83–2–33; Nov. 24, 1954; Appointment of Comptroller General of the United States. (A history of the responsibility of the Comptroller General to the Congress under the Budget and Accounting Act of 1921.)

84th Congress

84–1–2; Jan. 22, 1955; Nomination of Joseph Campbell, Comptroller General.

84–1–25; July 6, 1955; S. 1806, relief of accountable officers.

84–1–26; July 6, 1955; S. 1927, to provide permanent authority for relief of certain disbursing officers.

S. Rept. 1572; Feb. 23, 1956; Review of audit reports of the Comptroller General.

84–2–5; Mar. 6, 1956; S. 2369 (Smathers and Kennedy), to provide for improving accounting methods in the executive branch of the Government, and for other purposes.

84–2–6; Mar. 16, 1956; S. 3199 (Payne), to improve governmental budgeting and accounting methods and procedures, and for other purposes.

85th Congress

85–1–6; Feb. 20, 1957; S. 434 (S. 316), stating budget estimates on accrued expenditure basis.

85–1–17; May 1, 1957; S. 1799, to facilitate payment of Government checks, and for other purposes.

85–2–14; May 1, 1958; A proposal for simplifying and improving the Federal payroll.

85–2–27; S3578; to prohibit withholding or impoundment of appropriations.

86th Congress

86–1–45; July 22, 1959; Budget and accounting legislation pending before the Committee on Government Operations: S. 1244, S. 1560, S. 2122, and S. 2373; and S. 2194 before Committee on Finance.

86–1–54; Aug. 18, 1959; Budget and accounting legislation pending before the Committee on Government Operations; S. 1244 (supplemental to 86–1–45).

86–1–66; Dec. 11, 1959; Improvements of Federal budgeting, accounting, and auditing procedures (press release of President and report of Bureau of Budget).

Committee print; Federal Property and Administrative Services Act of 1949, as amended, with analysis and index.

86–2–14; May 4, 1960; Agency comments in S. 2373 (Curtis, et al.), to authorize the President to reduce or eliminate by Executive order any appropriation or appropriations made by any act or joint resolution of the Congress.

Hearings

80th Congress

Feb. 21, 1947; S. 273; to limit the time within which the General Accounting Office shall make final settlement of the monthly or quarterly accounts of disbursing officers under the executive branch of the Government (not printed).

Oct. 14, 15, 1947; Report of Comptroller General on survey of accounting system of Federal Public Housing Authority (H. Doc. 229) (not printed).

Feb. 2, 17, 18, 23, 25, 1948; Evaluation of Legislative Reorganization Act of 1946.

Mar. 31, Apr. 1, 2, 5, 1948; The Federal Property Act of 1948 (draft bill submitted by Federal Works Administrator. Subsequently S. 2754 introduced).

81st Congress

Apr. 14, 1949; S. 990; To reorganize and simplify the procurement, utilization, and disposal of Government property.

Apr. 14, 1949; S. 859; To authorize all Federal agencies to donate surplus property for educational purposes.

Apr. 14, 1949; S. 991; To create an Office of General Services as a central agency to have jurisdiction and control over certain administrative services in the executive branch of the Government, and for other purposes.

May 31, June 1, 2, 1949; S.J. Res. 94; To provide for economy in Government by reducing

expenditures for the fiscal year 1950 consistent with the public interest.

May 31, June 1, 2, 1949; S.J. Res. 97; To reduce Government expenditures for the fiscal year 1950, balance the budget, avert an increase in taxes or rise in the national debt, and maintain a sound national fiscal policy as a basis for the security and economic well-being of the United States.

Feb. 24, 1950; S. 193; To provide for the payment by the United States of premiums on bonds of Government officers or employees. Subcommittee on Fidelity Bond Bills.

Feb. 24, 1950; S. 1692; To amend title 6 of the United States Code to provide for the issuance by the United States of official bonds covering Government officers and employees without charge to such officers and employees, and for other purposes. Subcommittee on Fidelity Bond Bills.

Feb. 24, 1950; S. 1997; To provide for the bonding of Federal officials and employees. Subcommittee on Fidelity Bond Bills.

Feb. 24, 1950; S. 2515; To provide a fidelity trust fund in the Post Office Department, and for other purposes. Subcommittee on Fidelity Bond Bills.

Feb. 27, 28, Mar. 2, 3, 6, 7, 1950; S. 2054; To authorize the President to determine the form of the national budget and of departmental estimates, to modernize and simplify Government accounting and auditing methods and procedures, and for other purposes (and amendments of Aug. 1, 1949, by Senator McCarthy).

July 10, 1950; S. 3850; To authorize the President to determine the form of the national budget and of departmental estimates to modernize and simplify governmental accounting and auditing methods and procedures, and for other purposes (not printed).

Aug. 9, 1950; H.R. 8706 (S. 193, S. 1692, S. 1997, S. 2515); An act to provide for the purchase of bonds to cover officers and employees of the Government (and related bills S. 193, S. 1692, S. 1997, S. 2515). Pt. 2, Subcommittee on Fidelity Bond Bills.

82d Congress

May 15, 16, 17, 1951; S. 913; to amend the Legislative Reorganization Act of 1916 to provide for more effective evaluation of the fiscal requirements of the executive agencies of the Government of the United States.

June 6–8, 11–15, 18–22, 27, 1951; organization and operation of Congress.

83d Congress

May 7, 1953; S. 833; to create a Joint Committee on the Budget. Subcommittee on Reorganization.

July 16, 1953; H.R. 5228; to amend sec. 303 of the Budget and Accounting Act, 1921 (42 Stat. 23) (not printed).

84th Congress

Mar. 20, 21, 26, 27, 28, 1956; S. 3362, S. 3199, S. 2480, S. 2369; budgeting and accounting. Subcommittee on Reorganization.

June 4, 5, 6, 1956; S. 3897; budgeting and accounting. Pt. 2, Subcommittee on Reorganization.

85th Congress

Apr. 12, 1957; S. 434; to provide for improved methods of stating budget estimates and estimates for deficiency and supplemental appropriation.

Apr. 12, 1957; S. 316; to provide for stating appropriations on an accrued expenditure basis. Subcommittee on Reorganization.

July 11, 1957; S. 2331, S. 2283, S. 2224, S. 2177, S 1540, S. 1754, S. 2533; Federal property and Records Management. Subcommittee on Reorganization.

87th Congress

S. 529, to amend the Legislative Reorganization Act of 1946 to provide for a joint committee on the Budget (Reported to and passed by Senate).

H.R. 10613, to eliminate the requirements for certain detailed estimates in the annual budget (became Public Law 87–774).

S. 432, to authorize the President to reduce or eliminate by Executive Order any appropriation or appropriations (action postponed).

S. 195, to establish policies with respect to productive capital investments of the Government (action postponed).

S. 2286, to provide for periodic Congressional review of federal grants and aid (no action taken).

S. 3363, to provide for more effective utilization of federal grants by encouraging coordinated local review (no action taken).

Sen. Res. 288, disapproving Reorganization Act #1 of 1962, Hearings: Senate Document #11—financial management in the Federal Government.

Senate Document #96: Functions of General Accounting Office.

Senate Report #142: Coordination of federal agencies' programs in bio-medical research.

Committee Print—October 16, 1961, organizing for national security. The Bureau of the Budget and the Budgetary Process.

Committee Print—November of 1962: Problems of Federal, State, Local Relations.

88th Congress

S. 537, to create a joint committee on the budget. Reported to and passed by the Senate.

H.R. 10446, to permit the use of statistical sampling procedures in the examination of vouchers. (Became Public Law 88–521).

H.R. 10705, to amend the Government Cooperation Control Act to provide for audits on calendar year basis. (Became Public Law 88–518).

S. 1577, to authorize the Bureau of the Budget to provide fiscal guidelines for automatic data processing equipment.

Hearings before the Government Operations Committee, creation of a joint committee on the budget.

Hearings before the Subcommittee on Intergovernmental Relations, periodic Congressional review of federal grants and aid.

Committee Print—December of 1963, The Federal System as seen by State and Local Officials.

Committee Print—May 30, 1964, impact of federal urban development programs of local government organization and planning.

89th Congress

S. 2, to provide for a joint committee on the budget (Reported to and passed by the Senate).

S. 285, to establish policies with respect to productive capital investments (No action taken).

H.R. 6438, to authorize any executive department or bureau to make appropriate accounting adjustments or reimbursement between the respective agencies. (Public Law 88–473).

S. 1635, to increase annual approval by the Congress of aggregate accounts of expenditures authorizations contained in General Appropriations Act (No action taken).

Hearings on creative federalism, Subcommittee of Intergovernmental Relations, dealing with the role of the Executive Office in coordinating federal programs.

Hearings on the establishment of the Department of Housing and Urban Development.

Hearings on the Federal role in urban affairs.

The Intergovernmental Cooperation Act of 1965, hearings, dealing with executive office coordination of federal programs.

Committee Print—December 15, 1965, The Federal System as Seen by Federal Aid Officials. The Senate Document No. 80 five-year record of the Advisory Committee of Governmental Relations.

Committee Print—June 29, 1966, Federal Expenditures to States and Regions—A Study of Distribution of Impact.

Committee Print—October 15, 1966, The Continuation of American Federalism—A Historian's View.

90th Congress

S. 538, to amend the Legislative Reorganization Act to provide for joint committee on the budget. (Passed by the Senate.)

S. 314, to establish policies with respect to productive capital investments. (Referred—pending completion of study.)

S. 1611, to require annual approval by the Congress of aggregated accounts of expenditures authorizations contained in General Appropriations Act (no action taken).

Hearings on the Intergovernmental Cooperation Act of 1967, related in part to Budget Bureau coordination of grants and aid.

Hearings of government policy in practice with respect to contract for technical services.

Hearings on the full opportunity and social accounting Act.

Hearings on Planning—Programming—Budgeting.

Committee Print—July 10, 1967, Periodic Congressional Reassessment of Federal Grants and Aid.

Committee Print—July 26, 1967. Planning Programming and Budgeting: 3 Volumes—(1) Official Documents, (2) Selected Committees and (3) Initial Memorandums.

Committee Print—January 5, 1968. Planning, Programming and Budgeting: PPBS and Foreign Affairs.

Committee Print—April 22, 1968. Planning, Programming and Budgeting: Uses and Abuses of Analysis.

Committee Print—May 20, 1968. Planning, Programming, Budgeting: Budget Bureau Guidelines of 1968.

91st Congress

Reorganization Plan #2 of 1967 to establish Office of Management and Budget and the Domestic Policy Council. (approved by the Congress)

S. 789, to provide that the appropriations' request of certain regulatory agencies be transmitted directly to Congress. (No action taken)

S. 2899, to amend the Budget and Accounting Act to require the submission of the budget on an administrative budget rather than a unified budget basis (No action taken).

S. 4616, to provide that no regular appropriation act for fiscal year should become effective until enactment of the last regular appropriations act for that year. (no action taken)

Sen. Res. 146, to amend the Budgeting and Accounting Act to provide requirements with respect to information contained in the President's budget. (A similar amendment was contained in Legislative Reorganization Act of 1970.)

S. 1952, to establish in the Executive Office of the President, an independent agency to be known as the Office of Executive Management (This was covered in part by Reorganization Plan #2 of 1970).

S. 3113, to provide for a separate session of Congress for the consideration of appropriation bills and to establish the calendar year as the fiscal year of the government. (The Committee determined that hearings were required before action taken)

S.J. Res. 60, to establish a commission on balance, economic development (The Committee held hearings on a similar bill. It was reported favorably and passed by the Senate.)

S.J. Res. 145, to establish a joint Congressional Committee to define national goals. (No action taken)

S. 2479, to improve the federal management of federal assistance programs; to facilitate the consolidation of such programs, and to provide for joint funding simplification and improved accounting procedures.

Hearings on S. 11: "The Intergovernmental

Personnel Act of 1969 and Report" (P.L. 91-648).

Hearings on S. 2483: "The Intergovernmental Revenue Act of 1969."

Hearings on S. 3067: "To amend the Federal Reports Act which provides for OMB clearance of information requests."

Committee Print—September 22, 1969: Federal Programs of grants and aid to state and local governments.

Hearings on the capability of GAO to analyze and audit defense expenditures.

92d Congress

Hearings on S. 448 to provide for the separation of regulatory agency budgets from control by the OMB.

Hearings on S. 1770: "The Intergovernmental Revenue Act of 1971."

Hearings on S. 1637 and related legislation: To Provide the OMB with administrative and regulatory powers over the establishment and organization of Federal Advisory Committee.

Hearings on S. 718 and related legislation concerning program information, Intergovernmental Cooperation, and Intergovernmental Personnel.

Mr. METCALF. Mr. President, I ask unanimous consent to place in the RECORD a copy of section 200 of the Office of Management and Budget Manual which, proudly I might say, lists all the statutes, Executive orders, and other instructions and injunctions under which the Office operates as a managing agency of the Government, fiscal, and operational.

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

APPENDIX II

SECTION 200—RESPONSIBILITIES OF THE OFFICE OF MANAGEMENT AND BUDGET

200-1. *Establishment.*

The Office of Management and Budget was established in the Executive Office of the President by Reorganization Plan No. 2 of 1970, 35 F.R. 7959, which became effective July 1, 1970. The Plan designated the Bureau of the Budget as the Office of Management and Budget and transferred to the President all functions vested by law in the Bureau of the Budget or the Director of the Bureau of the Budget. By Executive Order No. 11541 of July 1, 1970, the functions thus vested in the President were delegated to the Director of the Office of Management and Budget. That Order also continued in effect all outstanding delegations, rules, regulations, and other forms of Executive or administrative action issued or taken by or relating to the Bureau of the Budget prior to the effective date of the Reorganization Plan.

200-2. *Pertinent statutes.*

The following statutory provisions pertain to the Office and its principal functions:

a. Reorganization Plan No. 2 of 1970, 35 F.R. 7959, which established the Office of Management and Budget in the Executive Office of the President.

b. Budget and Accounting Act, 1921 (31 U.S.C. 1-24), which provides for the preparation of the annual budget and any supplemental or deficiency estimates, and for the conduct of administrative studies to enable the President to achieve greater economy and efficiency in the executive branch.

c. Reorganization Plan I of 1939 (53 Stat. 1423), which made the Bureau of the Budget a part of the Executive Office of the President and transferred to it the functions of the Central Statistical Board and the Central Statistical Committee.

d. *Government Corporation Control Act of 1945* (31 U.S.C. 847-849, 852), which extends the executive budgetary functions to wholly owned Government corporations.

e. *Budget and Accounting Procedures Act of 1950* (64 Stat. 832), which amplifies the Budget and Accounting Act by clarifying responsibilities, especially in the fields of administrative analysis and integration of statistical work, and by providing for a continuous program for the improvement of accounting and financial reporting throughout the Government.

f. *Section 3679 of the Revised Statutes,* as amended (31 U.S.C. 665), which prescribes procedures by which the Director apportions appropriations, provides for agency systems of administrative control of funds to be approved by him, and authorizes him to establish reserves in appropriations and funds.

g. *Act of August 1, 1956* (70 Stat. 782), which amended the Budget and Accounting Act and the Budget and Accounting Procedures Act, mainly to make further improvements in governmental budgeting and accounting methods and procedures.

h. *Act of October 30, 1965* (40 U.S.C. 759), which deals with automatic data processing equipment, and under which guidelines and information are provided for the management of automatic data processing activities in the Federal Government.

i. *Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966* (42 U.S.C. 3334), under which rules and regulations are prescribed for the coordination of Federal aids in metropolitan areas.

j. *Intergovernmental Cooperation Act of 1968* (42 U.S.C. 4201-4244), and the President's memorandum on November 8, 1968, delegating certain authority under that Act (33 F.R. 16487), which require the issuance of rules and regulations with regard to (1) improved administration of grants-in-aid to the States; (2) special or technical services to State and local units of government; and (3) the formulation, evaluation, and review of Federal programs and projects having a significant impact on area community development.

k. *Section 102 of the District of Columbia Revenue Act of 1970* (P.L. 91-650) which requires the Office to examine and review District of Columbia appropriations to determine priorities of expenditures and where reductions can be made.

l. *Section 3(c) of the Federal Pay Comparability Act of 1970* (P.L. 91-656), which designated the Director and the Chairman of the Civil Service Commission as the President's agents for the 1971 and 1972 adjustments under subchapter I of that Act.

m. *Sections 201 and 202 of the Legislative Reorganization Act of 1970* (31 U.S.C. 1151-1153), which assigns to the OMB and others the responsibility for developing and maintaining a standardized information and data processing system for budgetary and fiscal data together with a set of standard classifications for Federal programs, activities, receipts, and expenditures that will serve both the Congress and the executive branch.

n. *5 U.S.C. 305,* which requires the issuance and administration of regulations under which each agency makes systematic reviews of its operations on a continuing basis.

o. *5 U.S.C. 4112,* which requires the issuance of regulations with regard to Government employee training programs concerning the absorption of costs thereof.

p. *44 U.S.C. 1108,* which requires approval of the use of appropriated funds for the printing of periodicals.

g. *44 U.S.C. 3501-3511* (the Federal Reports Act), which requires coordination of Federal reporting and statistical services in order to eliminate duplication, reduce costs, and minimize the burden on the public of furnishing information to Federal agencies.

200-3. *General statement of primary functions.*

The Office of Management and Budget is charged with a basic responsibility for assisting the President in the development and effective management of Federal programs. Within this framework, the primary functions of the Office of Mangament and Budget are as follows:

a. To assist the President in the preparation of the budget and the formulation of the fiscal program of the Government.

b. To supervise and control the administration of the budget.

c. To keep the President informed of the progress of activities in agencies of the Government with respect to programs proposed and undertaken.

d. To develop improved budgetary, accounting, and other financial management practices for the executive branch.

e. To develop more effective techniques for the evaluation of the impact of governmental programs and the adequacy of governmental services.

f. To devise programs for more effective development and utilization of career executive talent in the Federal service.

g. To formulate and coordinate programs for the improvement of the management and organization of the executive branch of the Government.

h. To plan and promote the improvement, development, and coordination of Federal statistical services and management information systems.

i. To assist the President by clearing and coordinating departmental advice on proposed legislation and by making recommendations as to Presidential action on legislative enactments, in accordance with past practice.

j. To aid the President in achievement of more efficient and economical conduct of governmental programs through identification of outmoded programs and reduction of duplicate effort.

k. To assist in the consideration and clearance and, where necessary, in the preparation of proposed Executive orders and proclamations.

200-4. *Related Executive orders.*

Principal Executive orders relating to the Office are:

a. *Executive Order No. 8248 of September 8, 1939* (4 F.R. 3864), which specified the functions of the Bureau of the Budget in the Executive Office of the President (see Section 200-3).

b. *Executive Order. No. 9094 of March 10, 1942* (7 F.R. 1972), which provides for coordination and planning of Federal mapping and chart-making activities.

c. *Executive Order No. 9384 of October 4, 1943* (8 F.R. 13782), which provides for review of Federal public works and improvement projects.

d. *Executive Order No. 10033 of February 8, 1949* (14 F.R. 561), which requires approval for responses by Federal agencies to statistical inquiries from inter-governmental organizations.

e. *Executive Order No. 10253 of June 11, 1951* (16 F.R. 5605), which provides specific authority for development of programs and issuance of regulations for the improvement of Federal statistical activities.

f. *Executive Order No. 10579 of November 30, 1954* (19 F.R. 7925), which provides for decisions on appeal by an agency from any determination by the Administrator of General Services with respect to the establishment of an interagency motor vehicle pool or system.

g. *Executive Order No. 10900 of January 5, 1961* (26 F.R. 143), as amended by Executive Order No. 11036 of July 11, 1962 (27 F.R. 6653), which delegates a part of the President's authority to fix amounts of foreign currencies to be used for various purposes and to waive certain statutory requirements.

h. *Executive Order No. 11030 of June 19, 1962* (27 F.R. 5847), as amended by Executive Order No. 11354 of July 1, 1967 (32 F.R. 7695), which provides for clearance for the President of Executive orders and proclamations (see Section 200-3k).

l. *Executive Order No. 11060 of November 7, 1962* (27 F.R. 10925), which requires establishment of rates for hospital care and treatment furnished by the United States for use in connection with recovery from tortiously liable third persons.

j. *Executive Order No. 11073 of January 2, 1963* (28 F.R. 203), which requires the Director and the Chairman of the Civil Service Commission to submit annually to the President certain reports relating to Federal pay rates pursuant to 5 U.S.C. 5302.

k. *Executive Order No. 11466 of April 18, 1969* (34 F.R. 6727), which authorizes the designation of projects for joint funding under section 612 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2962) and section 406 of the Juvenile Delinquency Prevention and Control Act of 1968 (42 U.S.C. 3886) and to designate or provide criteria for the designation of one Federal agency to act for all participating agencies in administering any such jointly funded projects.

l. *Executive Order No. 11541 of July 1, 1970* (35 F.R. 10737), which delegates to the Director of the Office of Management and Budget the functions transferred to the President by Reorganization Plan No. 2 of 1970.

m. *Executive Order No. 11592 of May 6, 1971* (36 F.R. 8555), which delegates to the Director the functions of granting certain approvals under provisions of the River and Harbor Act of 1970 and the Flood Control Act of 1970.

n. *Executive Order No. 11609 of July 22, 1971* (36 F.R. 13747), which delegates to the Director of the Office of Management and Budget the exercise of statutory authorities of the President involving (1) regulatory functions with respect to quarters and facilities, (2) transfers of balances of appropriations, (3) interagency land transfers, land acquisitions, contracts for land acquisitions and other land transactions, and (4) allocation of funds for management improvement.

200–5. *Organization.*

The Office consists of the Office of the Director and the following divisions, the organization and functions of which are set forth in subsequent Sections:

a. *Divisions*

(1) Organization and Management Systems.
(2) Program Coordination.
(3) Executive Development and Labor Relations.
(4) Statistical Policy.
(5) Management Information and Computer Systems.
(6) Legislative Reference.
(7) Budget Review.
(8) Evaluation.
(9) Economics, Science, and Technology Programs.
(10) General Government Programs.
(11) Human Resources Programs.
(12) International Programs.
(13) National Security Programs.
(14) Natural Resources Programs.

An organization chart is provided in Exhibit A.

Mr. METCALF. Mr. President, I also ask unanimous consent to place in the RECORD at this point, the budgetary reserves—impoundments which I obtained from the OMB this fall—as Appendix III.

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

APPENDIX III

BUDGETARY RESERVES, APRIL 1972

Under authority delegated by the President, the Office of Management and Budget operates a system of apportioning the funds provided by the Congress. The apportionments generally are for the current fiscal year and limit the amounts the agencies may obligate during specified periods.

There are occasions when the amounts of available funds are not fully apportioned. That is, some amounts are either withheld from apportionment, or their use is temporarily deferred. In these cases, the funds not apportioned are said to be held or placed "in reserve." This practice is one of long standing and has been exercised by both Republican and Democratic Administrations as a customary part of financial management.

The reasons for withholding or deferring the apportionment of available funds usually are concerned with routine financial administration. They have to do with the effective and prudent use of the financial resources made available by the Congress. Thus, specific apportionments sometimes await (1) development by the affected agencies of approved plans and specifications, (2) completion of studies for the effective use of the funds, including necessary coordination with the other Federal and non-Federal parties that might be involved, (3) establishment of a necessary organization and designation of accountable offices to manage the programs, (4) the arrival of certain contingencies under which the funds must by statute be made available (e.g., certain direct Federal credit aids when private sector loans are not available). In other cases the funds may be withheld in accordance with provisions of the Anti-Deficiency Act (31 U.S.C. 665) for such reasons as a change in conditions since they were appropriated or to take advantage of previously unforeseen opportunities for savings.

Table A, attached, lists the items and amounts currently reserved for such routine financial administration. They total $9.4 billion, which is a reduction of more than $1 billion since January of this year. This reduction is indicative of the fact that amounts are frequently released from reserve—and put to use—during each fiscal year as plans, designs, specifications, studies, project approvals, and so on are completed. As a result, the total amount held in reserve usually reaches a low point at the end of the fiscal year.

The reserves established for reasons of routine financial administration are recognized by all concerned to be temporary deferrals, and their need or wisdom is usually not questioned. In addition, however, there has been a long-standing and consistent practice in both Republican and Democratic Administrations to establish some—a much smaller amount of—reserves for reasons other than routine financial administration. It is these latter reserves which have sometimes been criticized as "impoundments" of funds.

Amounts being held in reserve for reasons other than routine financial administration generally could be used (i.e., obligated) during the apportionment time period. They have not been apportioned from time to time for such reasons as the Executive's responsibility to (1) help keep total Government spending within a congressionally-imposed ceiling, (2) help meet a statutory limitation on the outstanding public debt, (3) develop a governmentwide financial plan for the current year that synchronizes program-by-program with the budget being recommended by the President for the following year, or (4) otherwise carry out broad economic and program policy objectives.

Table B, attached, lists the items and amounts currently held in reserve for reasons other than routine financial administration. They total $1.6 billion, a reduction of almost $200 million from the amount so reserved in January of this year.

The total of all current reserves (i.e., Tables A and B) is 4.6% of the total unified budget outlays estimated for fiscal 1972. The comparable percentage at the end of fiscal years 1969 through 1961 ranged from 7.5% to 8.7%. At the end of fiscal 1968, it stood at 6.7%, and a range in the neighborhood of 6% has been normal in recent years. The amount currently reserved is expected to decline still further during the remainder of the fiscal year.

TABLE A.—*Budgetary reserves for routine financial administration, April 1972*

(In thousands of dollars)

Agency and account:	*Amount*
Executive Office of the President:	
Council on Environmental Quality and Offices of Environmental Quality	53
Apportionment awaits development of proposals for contract studies of environmental problems.	
National Security Council	108
Apportionment awaits development by the agency of approved plans.	
Special Action Office for Drug Abuse Prevention	682
Apportionment represents the balance of appropriation which cannot be utilized by the Office in 1972 due to late enactment of legislation. Release will occur as needed in 1973 operations.	
Funds appropriated to the President:	
Appalachian Regional Development Programs	40,000
Apportionment awaits development of approved plans and specifications.	
Economic Stabilization Activities	300
A total of $100 thousand is reserved for subsequent use, as needed and anticipated, by the U.S. Courts in support of the Temporary Emergency Court of Appeals. The remainder is reserved for contingencies and will be apportioned as required.	
International Security Assistance:	
Foreign military credit sales	98,100
Apportionment awaits development by affected agencies of coordinated plans and specifications.	
International development assistance:	
Prototype desalting plant	20,000
Apportionment awaits development by the agency of approved plans and specifications.	
Inter-American Foundation	41,624
Amount represents balance of initial funding from AID transfer to cover first 4 years of the Foundation's operations. Apportionments will continue to be made annually as plans and specifications are developed.	
Department of Agriculture:	
Agricultural Research Service:	
Construction	70
Represents residual amount of appropriation for the planning that is not required for that purpose. Apportionment awaits additional appropriation for construction.	
Scientific Activities Overseas (special foreign currency program)	352
Amount shown here is in excess of current estimates of 1972 needs. If conditions change and the funds are needed, apportionments will be made.	
Animal and Plant Health Service	2,049
This amount is in excess of current estimate of 1972 needs.	

The funds will be apportioned, if needed, for animal and pest control.

Farmers Home Administration:
Mutual and self-help housing grants ---------- 729
Amount shown here is in excess of current estimates of 1972 needs. If conditions change and the funds are needed, apportionments will be made.
Direct loan account (farm operating loans limitation) -- 49,453
Amount reflects balances of loan authority now held pending demonstration of the need for funds.

Consumer and Marketing Service:
Consumer protective marketing, and regulatory programs ---- 850
Amount shown here is in excess of 1972 needs. If conditions change and funds are needed, apportionments will be made.
Perishable Commodities Act Fund ---------- 1
Amount shown here is in excess of current estimates of 1972 needs. If conditions change and the funds are needed, apportionments will be made.

Forest Service:
Forest protection and utilization:
Cooperative range improvement ---------- 624
Amount shown here is in excess of current estimates of 1972 needs. If conditions change and the funds are needed, apportionments will be made.
Youth Conservation Corps ---- 1,730
These funds will be released later for the fiscal year 1973 portion of the calendar year summer program.
Forest roads and trails ------- 402,040
Reserve reflects amount of available contract authority above the obligation program that was approved and financed by the appropriation Congress enacted to liquidate the obligations.
Expenses, brush disposal ------- 13,303
Amount shown here is in excess of current estimates of 1972 needs. If conditions change and the funds are needed, apportionments will be made.
Forest fire prevention ---------- 115
Amount shown here is in excess of current estimates of 1972 needs. If conditions change and the funds are needed, apportionments will be made.

Department of Commerce:
Bureau of the Census:
19 Decennial Census ------- 11,028
These funds are to be used for printing costs and will be apportioned when needed for this purpose.
Regional Action Planning Commissions ---------- 300
Funds will be released when Mississippi Valley Regional Commission is formed.
Promotion of industry and commerce:
Trade adjustment assistance (financial assistance) --- 50,000
Amount shown here is in excess of current estimates of 1972 needs. If conditions change and the funds are needed, apportionments will be made.
Inter-American Cultural and Trade Center ---------- 5,446
Funds will be released when plans for participation in U.S. Bicentennial are completed and approved.
National Oceanic and Atmospheric Administration:
Research, development, and facilities ---------- 294
These funds are for disaster relief to fisheries. Apportionment awaits arrival of contingencies under which the funds must, by statute, be made available.

TABLE A.—*Budgetary reserves for routine financial administration, April 1972*—Cont.

(In thousands of dollars)—Cont.

Agency and account—Cont.	Amount
Department of Commerce—Cont.	
National Oceanic and Atmospheric Administration—Cont.	
Research, development, and facilities: (special foreign currency program) -------	411
Apportionment awaits development of research contracts with foreign organizations.	
Promote and develop fishery products and research pertaining to American fisheries ----------	257
Amount shown here is in excess of current estimates of 1972 needs. If conditions change and the funds are needed, apportionments will be made.	
National Bureau of Standards:	
Plant and facilities ----------	1,495
Funds are for a new laboratory now in the planning stage. Apportionment awaits development of approved plans and specifications.	
Department of Defense—Military	
Shipbuilding and conversion ---	1,388,946
For use in subsequent years; these projects are fully funded when appropriated.	
Other procurement programs ---	21,020
For use in subsequent years; these projects are fully funded when appropriated.	
Military construction and family housing ----------	302,602
Apportionment awaits development by the aegncy of approved plans and specifications.	
Civil defense programs ----------	1,080
Amount is in excess of currecently estimated needs. It will be used, as needed, in subsequent fiscal years.	
Special foreign currency program ----------	4,903
Apportionment awaits development by the agency of approved plans and specifications.	
Department of Defense—Civil	
Corps of Engineers:	
Construction, general:	
Lafayette Lake, Ind -----	183
Funds are being held in reserve because of local opposition to initiation of construction of the project.	
Lukfata Lake, Oklahoma ---	450
Funds are being held in reserve because the State of Oklahoma is considering designating one of the streams to be inundated as a wild and scenic stream.	
New York Harbor Collection and Removal of Drift ----------	80
Funds are being held in reserve because, although the project has been authorized by the Congress for initiation and partial accomplishment, initiation of construction must await approval of the Secretary of the Army and the President. The Secretary of the Army has neither approved the project nor sent the project report to the President.	
Panama Canal Government:	
Capital outlays ----------	850
Under a proposal now pending before the Congress, these fiscal year 1972 funds will be combined with the 1973 appropriation for the purchase of major items of capital equipment.	
Wildlife conservation ----------	474
Includes estimated receipts not needed for current year program. Will be used in subsequent years.	
Department of Health, Education, Welfare:	
National Institutes of Health:	
Buildings and facilities ------	2,565
Apportionment awaits development by the agency of approved plans and specifications. Construction obligations are to be incurred in subsequent years.	
Office of Education:	
School assistance in federally affected areas ----------	4,996
Apportionment awaits development by the agency of approved plans and specifications. Construction obligations are to be incurred in subsequent years.	
Higher education ----------	1,462
Apportionment awaits development by the agency of approved plans and specifications.	
Educational activities overseas (special foreign currency program) ----------	16
Apportionment of this amount awaits development of approved plans and specifications by the agency.	
Social Security Adminstration:	
Construction ----------	12,095
Apportionment awaits development of approved plans and specifications by the agency. These plans will depend at least in part on the outcome of legislation pending before the Congress to authorize acquisition of these facilities through purchase contracts that will provide for installment payments.	
Special Institutions:	
Gallaudet College ----------	516
This part of an appropriation for a national continuing education program for the deaf is being held pending the development of a plan for the effective use of the funds, including necessary coordination with the other Federal and non-Federal parties that might be involved.	
Howard University ----------	3,714
Apportionment of this amount awaits development of approved plans and specifications. Construction obligations are to be incurred in subsequent years.	

Office of Child Development--- 54
Apportionment of this amount awaits development of approved plans and specifications.

Department of Housing and Urban Development:
Model cities programs--------- 105,000
The 1972 appropriation is available for use in 1972 and 1973; the amount reserved is being allocated among cities to cover obligations to be made early in 1973. Thus, each such city will have in advance a target figure against which to plan.

Department of the Interior:
Bureau of Land Management:
Public lands developments, roads and trails--------- 16,694
Reserve reflects amounts of available contract authority above the obligation program that was approved and financed by the appropriation Congress enacted to liquidate the obligations.

Bureau of Indians Affairs:
Road construction---------- 53,699
Reserve reflects amounts of available contract authority above the obligation program that was approved and financed by the appropriation Congress enacted to liquidate the obligations.

Bureau of Outdoor Recreation:
Land and water conservation fund ---------- 30,000
Consists of 1972 annual contract authority which the 1973 budget shows as not being obligated. This contract authority, which was made available annually through fiscal year 1989 by Public Law 91-308, approved July 7, 1970, is not being used because the Federal agencies purchasing park lands have found annual contract authority cumbersome to administer. Instead, they prefer ordinary appropriations to finance such land purchases and the budget proposes appropriation of the full $300 million annual authorization for the fund, of which about $98 million is for Federal land purchases in 1973.

Bureau of Mines:
Drainage of anthracite mines--- 3,623
Funds are spent on a matching basis with Pennsylvania as that State and the Department of the Interior develop projects for this purpose. Apportionment awaits development of approved plans and specifications.

Bureau of Sport Fisheries and Wildlife:
Construction ---------- 9,075
Appropriated funds for D.C. Aquarium withheld because authorized facility cannot be constructed within the funding limits established by the authorization.

National Park Service:
Parkway and road construction_ 73,589
Reserve reflects amounts of available contract authority above the obligation program that was approved and financed by the appropriation Congress enacted to liquidate the obligations.

Bureau of Reclamation:
Construction and rehabilitation_ 1,055
Funds are being held in reserve pending completion and review of the economic restudy to determine the most effective use of funds for the Second Bacon Siphon and Tunnel Unit, Wash.
Operation and maintenance and replacement of project works, North Platte project---------- 34
This amount fulfills the legal requirements for this account of an annually established contingency reserve.

Department of Justice:
Federal Prison System:
Buildings and facilities------ 4,299
The apportionment awaits development by the affected agency of approved plans and specifications.

Department of State:
Education exchange fund (earmarked proceeds of payment by Finland on World War I debt) ---------- 22
Apportionment awaits development by the agency of specific plans for the exchange of students.
Bureau of Educational and Cultural Affairs:
International Educational Exchange Activities (special foreign currency programs)_ 5
Funds represent recent recovery of prior year obligations in excess of current year needs. These funds are expected to be utilized in the future.

Department of Transportation:
Coast Guard:
Acquisition, construction and improvements ---------- 7,607
Funds are for equipment or improvements and will not be needed until construction on seven projects is in an advanced stage. They will be released when needed.
Alteration of bridges-------- 1,000
Apportionment awaits development of approved plans and specifications.
Retired pay---------- 571
Appropriation is in excess of needs due to a lag in voluntary retirements.
Federal Aviation Administration:
Facilities and equipment (Airport and Airways trust fund) ---------- 53,639
Grants-in-aid for airports (Airport and Airway trust fund) ---------- 56,458
Construction, National Capital Airports---------- 900
U.S. International Aeronautical Exposition---------- 218
Civil Supersonic aircraft development termination----- 4,506
Apportionment of the above FAA accounts awaits development of approved plans and specifications.
Federal Highway Administration:
Territorial Highways---------- 5,000
New program established by the 1970 Highway Act, effective December 30, 1970: No appropriation was provided until August 1971, although $4.5M of contract authority was authorized for each of 1971 and 1972. Terrtiories were not prepared to handle program and have just begun to organize agencies and prepare studies for use of the funds. Total obligations through December 31, 1971, were about $93,000.
(1) 1973 contract authority ---------- 5,700,000
(2) Remaining balance from prior reductions to meet outlay ceilings and abate inflation ------- 246,798

Urban Mass Transportation Administration:
Urban mass transportation---- 299,970
The Congress provided a total of $3.1B of contract authority for the five-year period 1971-1975. Executive Branch apportionments will result in $1.0B of this amount having been used by June 30, 1972, another $1.0B (including this $300M) will be apportioned July 1, 1972, for fiscal 1973, leaving $1.1B, or $550M per year for the fiscal years 1974 and 1975. By appropriation action in fiscal years 1971 and 1972, the Congress effectively limited the amount of the contract authority that could be used each fiscal year. Thus, the $300M shown is the difference between the $600M apportioned for 1972 and the $900M upper limit for which administrative expenses may be incurred under the 1972 Appropriation Act for the Department of Transportation: "Sec. 308. None of the funds provided in this Act shall be available for administrative expenses in connection with commitments for grants for Urban Mass Transportation aggregating more than $900,000,000 in fiscal year 1972."

Treasury Department:
Office of the Secretary:
Construction, Federal Law Enforcement Training Center ---------- 22,239
Apportionment awaits development by the agency of approved plans and specifications.
Expenses of administration of settlement of World War Claims Act of 1928------- 1
Amount shown here is in excess of current estimate of 1972 administrative costs. If conditions change and funds are needed, apportionment will be made.
Bureau of the Mint:
Construction ---------- 79
Apportionment awaits the completion of studies for the effective use of funds.

Atomic Energy Commission:
Operating expenses:
Reactor development—
Funds held in reserve for the Liquid Metal Fast Breeder Reactor (LMFBR) demonstration plant awaiting the completion of detailed negotiations now underway involving AEC and the Commonwealth Edison Company and TVA---------- 43,350
Biomedical Research—
Funds held in reserve pending development of a plan for effective utilization------ 370
Plant and capital equipment:
Funds held in reserve awaiting AEC's development of firm plans or specifications for two projects in the nuclear materials and weapons programs-- 175
Funds held in reserve awaiting AECs completion of feasi-

bility studies or the results of research and development efforts for the national radioactive waste repository and two other projects ---------- 3,133

Funds held in reserve for possible cost overruns and other contingencies ---------

Environmental Protection Agency:

Operations, research and facilities ---------- 35,294

Awaiting completion of EPA study of requirements for Cincinnati laboratory ($28.0M) and other laboratory facilities ($7.294M).

General Services Administration:

Operating expenses, Public Buildings Service --------- 5,000

Amount shown here is in excess of the current estimate of 1972 needs. It reflects revised estimates of rent and utility costs. If conditions change and the funds are needed, apportionments will be made.

Construction, public buildings projects ---------- 45,514

San Antonio, Texas, project awaiting Congressional approval of revised prospectus—$7,402 thousand.

Philadelphia project—additional awards awaiting completion of present construction works—$23,046 thousand.

$10,803 thousand proposed in the 1973 budget for obligation in accordance with legislation now pending in the Congress to authorize private financing and installment payment/purchase of various projects.

$4,263 thousand is reserved to meet possible contingencies that might arise in the course of construction.

Sites and expenses, public buildings projects ---------- 14,665

Reserved to meet possible contingencies or for use in subsequent years—$10,380 thousand.

Projects involving space for Postal Service are being restudied—$4,285 thousand. Apportionment awaits the completion of this action for the effective use of the funds.

Operating expenses, Property Management and Disposal Service ---------- 769

Amount shown here is in excess of the current estimate of 1972 needs for stockpile disposals. If conditions change and the funds are needed, apportionments will be made.

Veterans' Administration:

Grants to States for extended care facilities ---------- 8,420

State plans and requests for funds have not been presented to the extent originally expected.

Cabinet Committee on Opportunities for Spanish-Speaking Peoples ---------- 30

Potential savings—

The obligation rate has been lower than anticipated because of operation under continuing resolution for two quarters.

Federal Communications Commission: Salaries and expenses (construction) ---------- 460

These funds are intended for replacement of a monitoring station. They cannot be used until the Congress raises the current limitation on FCC's 1972 construction program. It is expected that this will take place before the end of fiscal year 1972.

Federal Home Loan Bank Board:

Interest adjustment payments ---------- 5,000

Amount which can be effectively utilized by the Board in the current year has already been apportioned.

Foreign Claims Settlement Commission: Salaries and expenses ---------- 46,888

Apportionment awaits development by the agency of approved plans.

TABLE A.—*Budgetary reserves for routine financial administration, April 1972*—Cont.

(In thousands of dollars)—Cont.

Agency and account—Cont.	*Amount*
Veterans' Administration—Cont.	
Foreign Claims Settlement Comission—Cont.	
Payment of Vietnam and Pueblo prisoner of war claims ----------	150
Apportionment awaits arrival of contingencies under which the funds must, by statute, be made available.	
Smithsonian Institution:	
Salaries and expenses, Woodrow Wilson International Center for Scholars ----------	11
Reserved for contingencies. Will be apportioned if and when needed.	
Temporary Study Commissions:	
Commission on Highway Beautification ----------	35
Amount being held for completion of Commission's work in 1973.	
Commission on Population Growth and the American Future ----------	30
A small contingency amount is set aside to cover any increases in contracted costs after the Commission completes its work and disbands in May, 1972.	
National Commission on Consumer Finance ----------	50
For terminating the Commission in 1973 after the report is completed.	
Aviation Advisory Commission ----------	587
Funds in 1972 reserve will be used in 1973 to carry Commission through its expiration date of March, 1973.	
United States Information Agency:	
Salaries and expenses (special foreign currency program)	407
Special international exhibitions ----------	746
Apportionment of the above accounts awaits development of approved plans and specifications.	
Water Resources Council:	
Salaries and expenses ----------	25
Funds in reserve pending establishment of new river basin commissions.	
Total ----------	9,394,669

TABLE B.—*Reserves for reasons other than routine financial administration, April 1972*

(In thousands of dollars)

Agency and account:	*Amount*
Department of Agriculture:	
Rural Electrification Administration—	
Loans ----------	[a] 107,000
Farmers Home Administration:	
Sewer and water grants ----------	[b] 58,000
Department of Housing and Urban Development:	
Rehabilitation loans ----------	[c] 53,042
Grants for new community assistance ----------	[a] 5,000
Basic water and sewer grants ----------	[d] 500,000
Department of Transportation:	
Federal-aid highways ----------	623,000
Rights-of-way for highways ----------	50,000
Urban mass transportation ----------	[e] [299,970]
Atomic Energy Commission ----------	17,655
NERVA-Nuclear Rocket ----------	(16,990)
Plowshare ----------	(665)
National Aeronautics and Space Administration:	
NERVA-Nuclear Rocket ----------	22,400
National Science Foundation:	
Educational and institutional support ----------	[a] 21,000
Graduate traineeships ----------	[f] 9,500
Reserves established pursuant to President's August 15, 1971, directive to curtail previously planned Federal employment levels ----------	[g] 65,300
Total ----------	1,551,637

[a] Apportionment of entire amount is planned on July 1, 1972.

[d] This amount is planned to be used for continuation of the water and sewer grant program after the fiscal year 1972.

[c] Funds remaining from the 1972 appropriation for rehabilitation loans will be apportioned on July 1, 1972.

[d] This amount is planned to be used for continuation of the water and sewer grant program in 1973 and subsequent years.

[e] This item is listed here only because of public and congressional interest. It is not counted in the total of Table B because its planned use is consistent with congressional intent. The Congress provided a total of $3.1 billion of contract authority for the five-year period 1971–1975. Executive Branch apportionments will result in $1.0 billion of this amount having been used by June 30, 1972, another $1.0 billion (including this $300 million) will be apportioned July 1, 1972, for fiscal 1973, leaving $1.1 billion, or $550 million per year for the fiscal years 1974 and 1975. The $300 million shown is the difference between the $600 million apportioned for 1972 and the $900 million *upper limit* for which administrative expenses may be incurred under the 1972 Appropriation Act for the Department of Transportation:

"SEC. 308. None of the funds provided in this Act shall be available for administrative expenses in connection with commitments for grants for Urban Mass Transportation aggregating *more than* $900,000,000 in fiscal year 1972." (Italics supplied.)

[f] Apportionment awaiting NSF review of how these funds can be used effectively to help meet the Nation's scientific and engineering manpower needs without stimulating an oversupply of manpower with specialized capabilities.

[g] These funds are the remainder of $280 million in reserve established initially under the President's directive of August 15, 1971. Reserves are being released as required to meet costs of recent pay raises and other essential purposes. The current reserves include $15,616 thousand pending congressional approval for application to pay raise purposes together with other amounts this will also be apportioned during the fourth quarter for pay raise needs.

Mr. METCALF. Mr. President, I have spent the last few days listening to Senators and Congressmen and other witnesses tell a joint subcommittee on the

impoundment of appropriated funds what is wrong with the balance of power between the legislature and the executive.

It has been both a disturbing and educational experience. Nobody seems to have all the answers to this problem, not even a few of them. We are struggling for ideas and the right direction of legislative policy in that ad hoc committee, but we are getting to the bedrock of the malaise that is setting in on our federal systems of government. We are beginning to understand that a President cannot run this country—all by himself. And we are starting to do something about this.

This legislation—S. 518—is a first, but careful step. We feel we are right in proposing this bill to the Senate. We feel it should be adopted, now.

In view of the fact that the committee has had extensive consideration of Budget Bureau matters; that the legislative history of the Bureau discloses such a dramatic shift in functions and duties; and that the precedent for subjecting directors in the Executive Office of the President to Senate confirmation is so clear, I urge immediate adoption of Chairman ERVIN's bill to make the appointment of the Director and Deputy Director of the Office of Management and Budget subject to advice and consent of the Senate.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar beginning with New Reports.

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

DEPARTMENT OF JUSTICE

The assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

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

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

DISTRICT OF COLUMBIA

The assistant legislative clerk read the nomination of Walter E. Washington, of the District of Columbia, to be Commissioner of the District of Columbia.

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

DEPARTMENT OF COMMERCE

The assistant legislative clerk read the nomination of Richard W. Roberts, of New York, to be Director of the National Bureau of Standards.

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

DEPARTMENT OF STATE

Mr. MANSFIELD. Mr. President, a number of nominations have been reported by the Committee on Foreign Relations today. They were reported unanimously, and I ask unanimous consent that they be taken up individually at this time.

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

The assistant legislative clerk read the nomination of John A. Scali, of the District of Columbia, to be the Representative of the United States of America to the United Nations with rank of Ambassador.

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

The assistant legislative clerk read the nomination of Kenneth Rush, of New York, to be Deputy Secretary of State.

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

The assistant legislative clerk read the nomination of William J. Porter, of Massachusetts, to be Under Secretary of State for Political Affairs.

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

The assistant legislative clerk read the nomination of William J. Casey, of New York, to be Under Secretary of State for Economic Affairs.

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

The assistant legislative clerk read the nomination of Donald Rumsfeld, of Illinois, to be the U.S. Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank of Ambassador.

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

The assistant legislative clerk read the nomination of John N. Irwin II, of New York, to be Ambassador to France.

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

The assistant legislative clerk read the nomination of John A. Volpe, of Massachusetts, to be Ambassador to Italy.

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

The assistant legislative clerk read the nomination of U. Alexis Johnson, of California, to be Ambassador at Large.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate return to legislative session.

The motion was agreed to.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SCOTT of Virginia). Without objection, it is so ordered.

CONFIRMATION OF APPOINTMENT TO OFFICES OF DIRECTOR AND DEPUTY DIRECTOR IN THE OFFICE OF MANAGEMENT AND BUDGET

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, there will be no further business undertaken in the Senate this afternoon.

I am about to propound a unanimous-consent request and I do so with some trepidation because I cannot find one of the principals involved.

However, I do speak, I believe, with the authority of the distinguished Senator from North Carolina (Mr. ERVIN), the author of the pending business. I have contacted the Republican leader and the ranking Republican member of the committee, in line with requests made of the Democratic leadership some days ago.

So I would like to ask unanimous consent at this time that, beginning at the conclusion of morning business tomorrow, there be a time limitation of not to exceed 3 hours, that there be an allocation of the time to be equally divided between the distinguished Senator from North Carolina and the distinguished Republican leader or the distinguished Senator from Illinois (Mr. PERCY), or whomever they may designate; that there be one-half hour on each amendment, with the time to be equally divided between the sponsor of the amendment and the distinguished Senator from North Carolina, or whomever he may designate; that on amendments to amendments, motions or otherwise, there be an allocation of 20 minutes, the time to be equally divided on the same basis; that there be no nongermane amendments offered to the proposal and that the majority leader be given a little leeway because he is taking a chance and he may have to rectify it a little bit later on, or tomorrow.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, it is the understanding, I take it, of the request, that time for the amendments, if there be any, would come out of the 3 hours; that is, the overall time limitation?

Mr. MANSFIELD. No. It would be in addition, in case Senators wanted to speak. I do not believe that Senators want to speak so that we can probably reduce the period, but I am taking a little extra time here, to achieve a little more flexibility.

The PRESIDING OFFICER. Do Senators want this in the usual form?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, is there some generic objection to the usual form, which means only germane amendments? I have no desire to object myself.

Mr. MANSFIELD. Only germane amendments. That was the understanding. We have notified the ranking mem-

ber of the committee and the Republican leader.

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

The text of the unanimous-consent agreement is as follows:

Ordered, That, effective on Friday, February 2, 1973, at the conclusion of routine morning business, during the further consideration of 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, debate on any amendment in the first degree be limited to 30 minutes, debate on any amendments to amendments, debatable motions or appeals shall be limited to 20 minutes, with the time on any such amendment, motion or appeal to be equally divided and controlled by the mover thereof and the Senator from North Carolina (Mr. Ervin) or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from North Carolina (Mr. Ervin) and the Senator from Illinois (Mr. Percy) or his designee: *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.

Mr. MANSFIELD. Mr. President, it is anticipated that it might be possible not to have a rollcall vote tomorrow, but it cannot be guaranteed. If there is to be a rollcall vote tomorrow, the vote then will go over until Monday next.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees on tomorrow, under the standing order, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 15 minutes.

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 at the conclusion of any special orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceed 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 McCLELLAN AND SENATOR ROBERT C. BYRD ON MONDAY, FEBRUARY 5

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next—or on the first day that the Senate is in session next week—immediately following the recognition of the two leaders or their designees under the standing order, the distinguished senior Senator from Arkansas (Mr. MCCLELLAN) be recognized for not to exceed 15 minutes, that he be followed by the junior Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 15 minutes.

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

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 4:14 p.m. the Senate adjourned until tomorrow, Friday, February 2, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 1, 1973:

IN THE U.S. ARMY

The U.S. Army Reserve officers named herein for promotion as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, section 593(a) and 3384:

To be major general

Brig. Gen. Orville Kingsbury Fletcher, [redacted].

Brig. Gen. Sterling Ralph Ryser, [redacted].

To be brigadier general

Col. Pellegrino Philip Bavetta, [redacted], Civil Affairs.

Col. Robert Lee Bradley, [redacted], Medical Corps.

Col. James Keith Durham, [redacted], Corps of Engineers.

Col. William Henry Ecker, Jr., [redacted], Civil Affairs.

Col. Freeman Henry Forrest, [redacted], Infantry.

Col. John William Francis, [redacted], Infantry.

Col. Ladd Franklin Hunt, [redacted], Military Police Corps.

Col. James Benjamin Middleton, [redacted], Corps of Engineers.

Col. Henry Mohr, [redacted] Field Artillery.

Col. Harry Stott Parmelee, [redacted], Infantry.

Col. Lawrence Drew Redden, [redacted], Field Artillery.

Col. Darel Roy Sievers, [redacted], Military Police Corps.

Col. Jean Henry Trahin, [redacted] Infantry.

The Army National Guard of the U.S. officers named herein for promotion as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, section 593(a) and 3385:

To be major general

Brig. Gen. Robert Grant Moorhead, [redacted].

To be brigadier general

Col. Henry Hammond Cobb, Jr., [redacted] Infantry.

Col. Samuel Rufus Gay, Jr., [redacted], Infantry.

Col. Trelawney Eston Marchant, Jr., [redacted] Infantry.

Col. James Andrew Mickle, Jr., [redacted] Quartermaster Corps.

Col. Eugene Francis Parsons, [redacted], Field Artillery.

Col. Kermit Aubrey Patchen, [redacted], Corps of Engineers.

Col. Harold Newton Read, [redacted], Military Police Corps.

Col. Otto Ervin Scherz, [redacted], Field Artillery.

Col. Paul Carlton Short, [redacted] Infantry.

Col. Amos Martin Stonecipher, [redacted], Infantry.

Col. Herman Tenkin, [redacted], Armor.

Col. Holden Claude West, [redacted], Armor.

Brig. Gen. Robert Eugene Wilson, [redacted] Adjutant General's Corps.

Col. Arvin Reuben Ziehlsdorff, [redacted], Armor.

The Army National Guard of the U.S. officers named herein for appointment as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, section 593(a) and 3392:

To be major general

Brig. Gen. Charles Watts Fernald, [redacted].

Brig. Gen. Harry Jack Mier, Jr., [redacted].

To be brigadier general

Col. Alfred Fredrick Ahner, [redacted], Infantry.

Col. Albert Frank Fisher, [redacted], Field Artillery.

Col. Robert Samuel Ford, [redacted], Armor.

Col. John James Womack, [redacted], Armor.

CONFIRMATIONS

Excutive nominations confirmed by the Senate February 1, 1973:

DEPARTMENT OF JUSTICE

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

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

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

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

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

DISTRICT OF COLUMBIA

Walter E. Washington, of the District of Columbia, to be Commissioner of the District of Columbia for a term expiring February 1, 1977.

DEPARTMENT OF COMMERCE

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

DEPARTMENT OF STATE

John A. Scali, of the District of Columbia, to be the Representative of the United States

of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

Kenneth Rush, of New York, to be Deputy Secretary of State.

William J. Porter, of Massachusetts, a Foreign Service officer of the class of career minister, to be Under Secretary of State for Political Affairs.

William J. Casey, of New York, to be Under Secretary of State for Economic Affairs.

Donald Rumsfeld, of Illinois, to be the U.S. Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

John N. Irwin II, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

John A. Volpe, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Italy.

U. Alexis Johnson, of California, a Foreign Service Officer of the Class of Career Ambassador, to be Ambassador at Large.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

DEATH OF RALPH J. MENCONI

HON. MARK O. HATFIELD

OF OREGON

IN THE SENATE OF THE UNITED STATES

Wednesday, January 31, 1973

Mr. HATFIELD. Mr. President, in November 1972 a man who I have admired for his distinctive creative ability died of a heart attack, and in memory of his friendship and in tribute to his work, I ask unanimous consent that the press release by the Medallic Art Co., of Connecticut, which was issued following Mr. Ralph J. Menconi's death be printed in the Extensions of Remarks.

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

RALPH J. MENCONI "SCULPTOR OF PRESIDENTS" DIES AT 57

(By D. Wayne Johnson)

Ralph J. Menconi, who had been called the "sculptor of presidents" for his medallic work bearing the portraits of all the United States presidents and for the official presidential medals including the Nixon Inaugural Medal, died of a heart attack in his home town of Pleasantville, New York, November 18. He was 57 years old.

Mr. Menconi, who was a prolific medallist, was also a noted sculptor and active in the National Sculpture Society. He was first vice-president of that group of professional artists, a position he had held since 1968, and had been active in its educational activities among others.

It was his medals issued in uniform succession, beginning with a series on U.S. presidents, which had brought him his most public acclaim, particularly among the collecting fraternity of America. He had begun—and had completed—the series of 36 presidents and a series of 50 statehood medals. He had come within ten medals of completing a series on all 56 Signers of the Declaration of Independence; and he created, within the last year, 16 of a projected 25 medals on the Great Religions of the World, a theme which particularly held his interest.

In all, Mr. Menconi must have produced in the last 20 years over 600 medallic models resulting in nearly 300 fine art medals—a record unsurpassed by any contemporary artist in America.

While his knowledge varied over wide areas he had taken a specific interest in the coming celebrations of the bicentennial of American Independence, undoubtedly spurred by his researches for his series on the Signers of the Declaration.

He was a panel member of the coins and medals committee of the national American Revolution Bicentennial Commission. He had also produced the first medal for the Commission, one recently struck by the U.S. Mint and released to the public early in October.

The bicentennial medal, with a portrayal of Houdon's bust of Washington on the obverse and the famous Liberty Tree on the reverse, proved extremely popular with the public and 547,322 orders were received for the 1½-inch bronze memento the first month alone.

His Men in Space series, commemorating the flights of Apollo, were also popular. Apollo 11 through 16 each had been memorialized on a fine art medal by Menconi, with portraits of the astronauts and scenes from their walks on the moon, lift off, splash down, and support teams.

In fact, Mr. Menconi had completed a week before his death, the models on the Apollo 17 medal, the launching of which had been announced for December 6 and a planned walk on the lunar surface December 11 through 13.

He often worked ahead of schedule, and for him a deadline in the production of an art medal was something to beat. He was always cooperative according to the employees of Medallic Art Company, which had produced all his medals other than the mint medal. He worked well with clients, other artists and associates.

The tasks he had set for himself over the last decade would have been gruelling for a lesser man. Since 1962 he had produced a minimum of a pair of models a month for his various series (all issued by Presidential Art Medals of Vandalia, Ohio), plus accepting single commissions for medals, plus other sculptural commissions, often of heroic proportions, plus he was active in civic, professional, numismatic and cultural affairs.

His most recent commissions prior to his death were a medal for the United States Capitol Historical Society—to be released later this year—and a fountain for Pace College on Park Row in New York City. Previously this year he had also prepared portrait models of Senator Mark O. Hatfield (he had donated the models to him, the two are close friends), J. Edgar Hoover, as a memorial medal, W. Clement Stone for the Combined Insurance Company of America, V. M. Goldschmidt for the Geochemical Society and Judson B. Branch.

He had maintained memberships in the National Sculpture Society since 1950, The Century Association since 1955, the Municipal Art Society of New York (where he was a director 1954–60) since 1950, the American Numismatic Association since 1962 and the Collectors of Art Medals since its inception, 1970.

For the American Numismatic Society he had served on their standing committee on medals for two years, 1967–68.

Awards had recently been conferred upon him, particularly in the last two years, recognizing his sculptural and medallic accomplishments. He received a Doctor of Fine Arts from Hamilton College, where he once attended, the Michelangelo Award from the Sons of Columbus, and the Sculptor of the Year from the American Numismatic Association, all in 1971.

In 1972 he had received the Freedoms Foundation Award for Historic Medals and the Golden Plate Award from the American Academy of Achievement. Previously he had received the Speyer Award from the National Academy of Design in 1941, a grant from the Louis Comfort Tiffany Foundation in 1947, and a won a competition for the National Jefferson Expansion Memorial, 1947–48.

His funeral service was conducted November 21 at the Emanuel Lutheran Church in Pleasantville beneath a pair of reredos he had designed and donated.

For Ralph Joseph Menconi his works will live on for a long time for his admirers to remember.

BICYCLE TRANSPORTATION ACT OF 1973

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1973

Mr. KOCH. Mr. Speaker, I would like to bring to the attention of my colleagues a bill I introduced today, H.R. 692, with 28 cosponsors, entitled the Bicyle Transportation Act of 1973.

This bill would allow States and communities to use highway trust fund moneys for the development of bicycle lanes or paths. It also provides that such funds can be used for the construction of bicycle shelters and parking facilities, and for bicycle traffic control devices. The concept of this bill is essentially the same as that underlying the development of preferential bus lanes in our highway system. Federally aided bicycle lanes would be constructed so as to be part of an interstate system, an ABC road, or a designated urban system.

Bicycles are an important transportation resource and can make a definite contribution to municipal transportation—they should not simply be regarded as only recreation vehicles. Many commuters, when given the option of safe bicycle travel, will choose to pedal to work rather than ride by car or bus.

One of the nice things about bicycling is that it has benefits in addition to the transportation it provides; these include its contribution to mental and physical health and the lessening of air pollution and crowding. It is remarkable that we have a vehicle that emits no pollution, makes no noise, takes up little room, and even contributes to the physical fitness of the rider. And when provided with their own bicycle lanes, bicycles have a very low accident rate.

There is a danger, however, for cyclists who are forced to use roads heavily congested with automobiles. And thus, if bicycle transportation is to be encouraged, we need to develop bicycle lanes and paths.